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Plaintiff in Pro Per



UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

YAXIAN FAN

Plaintiff. vs.

CITY OF NEWPORT BEACH

Defendant. vs.

KEITH E. RODERHUIS, 2<sup>nd</sup> Defendant

KER is the owner of KER Legal Group.

KER is a second defendant.

Case No.: 8:22-CV-02178-FWS-(DFMx)

**PLAINTIFF FILES 2ND AMENDMENT  
COMPLAIN FOR RESPONSE CIVIL  
MINUTES TO PURSUANT FAIR  
JUSTICE AND CHILDREN'S SAFETY,  
CONTIUNE FOR THE SCHEDULED  
COURT TRIAL ON MAY 16, 2024**

**DATE:** October 31, 2023

**JUDGE:** Honorable, Fred W. Slaughter

**DEPT.:** 10D

**To: The Honorable Judge Slaughter for the United Sates**

Plaintiff, Yaxian Fan response to the Court Civil Minutes on September 29, 2023. dkt28

On October 19, 2023, Plaintiff filed Notie of Voluntary dismiss of Superior Court of Orange County was second defendant.

"Who should responsible for deprivation Plaintiff's Civil Right for Court Trial scheduled by Judge Salter in Superior Court on March 29, 2021?"

"Who was impose influence to the Superior Court Supervisor to hold on Plaintiff's opposition summary judgement documents that twice to stopped show on ROA docket?" That was truly to deprived Plaintiff in due process right of 14<sup>th</sup> amendment for fair justice

"Who filed notice of ruling after in next day on December 4, 2020 in five minutes summary judgement hearing?" *"after having fully considered the arguments of all*

1 parties, both written and oral, as well as the evidence presented, the court offered its  
 2 ruling” “How can in five minutes, to engage in oral argument?” “Where was Plaintiff  
 3 written argument?” Undeniable evidence to proof KER under penalty of perjury.

4 KER repeatedly, intentional engage in abusive Noerr-Pennington doctrine, if he can  
 5 shield his conflicts in interest, collect monetary of two parties, unlawful representations,  
 6 sham exception applies.

7 KER charged his legal for \$9,500 between two-party and spilt half & half in late 2019.

8 He seems an agent, greedy to collected monetary in the middle, that can easily to lower  
 9 moral standard, very dangerous to our society, and easy to corrupt our country for  
 10 hundred years that build up fair legal procedural in due process of 14<sup>th</sup> amendment.

11 Because of fundamental fairness, to become great legal system in the World.

12 Sinc then, I realize I should separate the City and KER due to his misrepresentation.

13 Finally, he is the one, for second defendant absolutely he is: Mr. Keith E. Rodenhuis.

14 He is the owner of KER Legal Group, representing the City since the lawsuit started.

15 KER is the one, who must fully responsible to deprive Plaintiff’s Citizen Civil Right.

16 **I. This lawsuit to pursuant Under 42 U.S.C. § 1983. KER imposes influence**  
 17 **Courts to deprive of Plaintiff’s Civil Right, Penalty of perjury, violation in due**  
 18 **processing of 14th Amendment and along with sham exception applies.**

19 **(1). KER deprives my civil right, from filing frivolous paper to frivolous lawsuit.**  
 20 Recently, KER continue tort and threaten Plaintiff in proceeding on the Federal Court.

21 On October 17, 2023, KER emailed: *“I encourage you to stop making false statements*  
 22 *to drop the lawsuit pending before Judge Slaughter or you may face additional financial*  
 23 *consequences for the (second) frivolous lawsuit you have filed against the City.”*

24 History always repeats! KER consistently tort and threaten to deprive Plaintiff’s Civil  
 25 Right and violation in due processes for fair trial in the Court for the United States.

26 On April 27, 2021, KER tort and threaten Plaintiff, he files frivolous paper if I do not  
 27 withdraw the motion for vacate summary judgement, otherwise, *“he will file Sanction, for*  
 28



1 *Plaintiff has been filing and **serving frivolous papers.***” Because motivation for revenge,  
 2 Sanction fully of accusations, outright lies, sham and shameful from beginning to ending.

3 On June 17, 2021 Assigned Judge Salter denied the Sanction and legal fee for \$5,525  
 4 From KER files frivolous papers to file frivolous lawsuit if I do not drop the lawsuit in  
 5 two and half years, he just con not stops to tort to threatening, to deprive Plaintiff’s Civil  
 6 Right to pursusant fair trial even happened in processing in the Court of United States.

7 Undeniable evidences to proof KER are guilty to deprives Plaintiff’s Civil Right to  
 8 Pursuant Fair Trial. He has been shameful in violation in due process for fair trial.

9 He cannot abusive the immunity to shield his evil motivation, sham exception applies.

10 On June 17, 2021 Assigned Judge Salter denied the Sanction and legal fee for \$5,525  
 11 **(2). KER under penalty of perjuries filed notice of ruling on fully Oral and written**  
 12 **argument in five minutes, the evidence to proof how he was shameful to represent.**

13 On December 4, 2020, in next day after summary judgement courtcall hearing, KER  
 14 filed notice of ruling: *“The Court, upon hearing the oral arguments, and after having*  
 15 ***fully** considered the arguments of all parties, both written and oral, as well as the*  
 16 *evidence presented, the court offered its ruling”* and attached with Deposition cost 3,750.

17 As we know, Judge George, she only once for the case, granted summary judgement  
 18 only in five minutes. “How can have fully oral argument for both parties? KER only said:  
 19 “Thank you your honor” after Judge George read Tentative Ruling, that only based the  
 20 City’s opinion, due to Plaintiff’s opposition Summary Judgement document still hold by  
 21 Supervisor Stacy until today’s date, the documents still hold on too.

22 How many times I asked KER and Supervisor Stacy, “Who told you to hold my files?”  
 23 I filed subpoenas for document or appear Infront of Judges in Superior court and Federal  
 24 Court, to answer the question, but for some reason, still have not yet coming through.

25 From above to proof that is KER imposed influence to the Court supervisor, both of us  
 26 do not know each other, otherwise, he has no reason to hold my file. it is why KER  
 27 cannot answer such demand question.

28 From years filing, only the opposition summary judgement did not show on ROA docket.

1 Undeniable evidence to proof KER filed "Notice of Ruling" is under penalty of perjury.  
 2 **(3). KER under penalty of perjury, deceived judgement from timely, to prejudice**  
 3 **untimely in Appellant Court, deprive Plaintiff civil right, sham exception applies.**

4 On June 17, 2021, Superior Court assigned judge Salter post judgement: "*Given one*  
 5 *of the arguments is that Fan was not afforded the opportunity to engage in oral*  
 6 *argument on the summary judgement motion, the court **concludes it must allow the***  
 7 ***motion to proceed as timely***"

8 On June 23, 2021, Plaintiff filed: "Notice of Appeal" after six days later, absolutely,  
 9 no such untimely issue. But KER intended deceived to untimely in Appellant Court.

10 On November 4, 2021, after four and half months late, we all shame on KER's  
 11 conclusion: "*For the reasons set forth above, this appeal is untimely and the Court*  
 12 *lacks jurisdiction. Moreover, Appellant's Opening Brief fails to articulate any pertinent*  
 13 *or intelligible legal argument. As such, Respondent respectfully requests **the Court***  
 14 ***dismiss this appeal with prejudice as it is untimely.***" Truly unlawful, tort and sham.

15 Undeniable evidence to proof KER under penalty of perjury, deceived judgement  
 16 from filed timely to untimely between courts.

17 KER has been using untimely as a weapon all the time, that to proof the City have no  
 18 evidence to prove they due diligence to make sure children and visitors safety.

19 Appellant Court dismissed the Appeal for the untimely such wrong reason that based on  
 20 KER deceived the Judgement, that is truly under penalty of perjury.

21 In addition, Appellant Court adopted KER's conclusion, as agreed to dismissed the  
 22 appeal for other reason for fails articulate any pertinent intelligible legal argument.

23 Before injury, Plaintiff's good memory, high energy, especially, dual languages were  
 24 big plus for the job I enjoyed very much. But after injured, the huge damage impact on  
 25 loss of my work component abilities, Tax and Finance, businesses, and individuals,  
 26 all accumulation of knowledges in domestic and international. Analysis effective,  
 27 confidence in communication abilities, which are self-employed the most important  
 28 demand. All of all rely on high energy and good health in support.

I tried the best to have number of job interviews as tax accountant in later 2019. Sadly,  
 I cannot win the challenges, cannot get the job due to lost working competent abilities.



1 Because due to the City no warnings on WET in under, that Physical injury and along  
 2 with KER's evil motive to destroy my life, my right, emotional depression with on all  
 3 Courts deprivation of Plaintiff Civil Right, Constitution law 42 U.S.C. § 1983 apply.

4 **(4). Plaintiff has zero negligence for the injury due to cannot see through WET**  
 5 **in underground, If I can see WET from surface, Yes, I have negligence. If the City**  
 6 **has warning sign, I have no case, and I cannot injure, due to I always aware of**  
 7 **warnings, it's why Plaintiff no car accident, no injury in my life, excluded this one.**

8 On August 12, 2020, in deposition all day, Amber asked: "*What was your negligence?*"  
 9 I already answered: "I have no negligence due to the city has no warning wet in under"  
 10 As first-time visitor, I have no idea the high tides in under by covering dry sand on the  
 11 surface during the daytime, high tides only happened after sunset.

12 The City knowledge that the foreseeable condition, but careless on children's safety due  
 13 to no warning sign. "What the sand ground in under why same as concrete?"

14 "Why the sand not same as Beach?" "Why no warning sign?" I cannot figure out.

15 On September 21, 2020, after more than two years since I injured on May 15, 2018,  
 16 Defendant filed Summary Judgement, attached Declaration of Mike Halphide as Chief  
 17 fire Department for lifeguard operation. He has been working for 36 years:

18 "*SAND submerged by frequently rising tides, surrounding the subject is denser and*  
 19 *more tightly compacted.*" Finally, after read his declaration I had an answer, because  
 20 WET in under, same as Pothole, covering by dry sand on the surface, but WET in under

21 **Prevention anybody injury is essential, especially hiding the danger in**  
 22 **children's park, we must stand up for children's safety!**

23 On May 15, 2018, Plaintiff age was 63, (not 66), after I sat ten minutes enough, I  
 24 wants to get off the lifeguard stand, maybe ten teenagers, looks in the same group, some  
 25 sitting at steps, and standing, some at the same level when I was sitting, all around the  
 26 lifeguard stand and they were very happily chatting and laughing, same as sunshine.

27 After I observed warning sign, I did not want interrupt them. I just trust the City if no  
 28 warning, that means the a little cute lifeguard stand is part for children play up down

1 facility, due to so close playground, smaller size and lower level, which to compare  
2 with the Oceanfront Beach. After ten minutes enough, I dropped down to (at sitting  
3 position) sand ground, there are covering by dry sand on the surface, nobody can see  
4 through in underground with high ties submerges surrounding if without warning signs.

5 At first, I slip/fall, directed broke my left foothill imminently, and whole-body impact  
6 fell to sand ground. Fortunately, I used my left arm to brace on the ground, which to  
7 broke my left forearm, otherwise, can broke chest, head, face. We can Imagin, what  
8 scary, painful, and powerful at moment” It was unforgettable nightmare in my life.

9 Anyhow, that same as pothole is hiding WET submerges to surrounding the subject,  
10 easy to confused that is for children play up jump down facility without warning in  
11 Children’s Marina Park, that is totally unacceptable in public children’s Park.

12 After my brother took me to Hoag Hospital in Newport Beach, had surgery stayed  
13 four nights in five days. On the way to Hospital, stopped Chiropractor Dr. Bill Brown’s  
14 clinic on 2000 W. Balboa Blvd, I hoped if he can have some treatment, but he cannot  
15 due to he has no equipment for the Xray.

16 Because my brother’s family with his twin five-year boys, came to visited me after I  
17 finished tax season. We spent ten days I leased the house close to Ocean. We every day  
18 to the Beach, due to one of nephew has very bad car sick, we cannot drive around.

19 We all aware of have warning signs. First day, at the Beach, I stopped my nephews  
20 jump action. But in second day, we were getting familiar and knows cannot slip fall on  
21 depth fluff sand. My nephews started jump up down from lower level to high level.  
22 I started from six days, stand up jump down from low to high, proximately, ten times,  
23 we were all save landing, we were all enjoying the Beach, felt like surfers in Paradise.

24 On the last day, before they departure, we walked to Marina Park first time, suddenly  
25 from Paradise went down the hell in forty minutes.

26 On January 18, 2021 and July 31, 2022, Plaintiff token shocking videos (need show to  
27 Court Trial), see photos children jump up down, no body know underground submerged  
28 compact sand same as concrete, even Inspector Eric Foley who working for the city for



28 years, he *"have never observed children playing on the subject,"* all negligence, the City have never known, have never been follow National Safety Council's sand rules, such as: "six-foot long drop fall zone, rake sand daily, maintenances minimum 12 inches depth in children's Park," but "Why cross one street at Oceanfront Beach follow Sand Rules with warning signs?" "Why the City cannot provide same due care for children's safety?" "Why tread children as secondary?" "Why no more "KEEP OFF sign?" The City must either fix the dangerous condition, same as the Oceanfront, or warning signs to alert to visitors and children's that lifeguard stand for lifeguard use only. otherwise, really confuse that is for children play up down facility and visitors and children cannot divided playground if without warning signs.

New evidence to proof the city knowledge the dangerous that WET in under, but still leave to public park, including children who play there at risk intentionally.

1). Again, the City already know foreseeable frequently rising tides which submerge with compact sand surrounding the lifeguard stand that clay like concrete, which easy caused slip / fall broke bones injury, but nobody can see through WET in under without warning. City of Newport Beach is intentionally to hiding the dangerous since started to the public in the year 2015. Evidence to proof from Declaration of Mike Halphide

2). The City should be foreseeable the lifeguard stand is too close to children's playground, nobody can divide playground zone without notice or warning sign.

3). The City should be foreseeable the lifeguard stand is small size and lower level to compare with Oceanfront lifeguard towers. Otherwise, really confuse the small one is designed for children play up down facility if no warning sign.

4). The City should be foreseeable on sand are huge difference between Marina Park and Oceanfront, both locations only cross a street, all in the same city.

"Why the city cannot provide same due care and tread children's safety as secondary? Because of the City hiding the danger, slip/fall/pothole broke bones injury changed my life upside down, which down to hell in forty minutes, at the Beach in Paradise more than ten days. "Why huge differences?" Because no warnings on the WET, not follow

1 the Sand rule, totally ridicules happened in Children's Park of City of Newport Beach.  
 2 So much pain on physical pain, cannot walk, cannot drive, normally take five-minute in  
 3 bathroom, but took me one hour, it was why I lost the job. I had too many calls from  
 4 office, but I cannot be there. My left body from foot to shoulder are weak, numb,  
 5 shrink, pain and unbalanced to compare with right side of body.

6 Especially, on my left foot, osteoarthritis, subtalar joint, and joint osteon arthritis and  
 7 bone hyperplasia, the left foot stays the pain is permanent.

8 Plaintiff even suffer more in frustrated in KER conduct is evil motivation to deprive of  
 9 my Citizen Civil Right for fair trial and for children's safety.

10 To deal the evil, caused my heart broken, mental anguish, fear, sleep disturbances.  
 11 If do not stand up to report to high Court of KER's callous dangerous mind, same as  
 12 virus, soon can other lawyers to follow and corrupt our great legal system, to abusive  
 13 immunity, with sham and shameful to deprivation Citizen's Civil Right for fair trial.  
 14 Fortunately, as an individual have federally protected rights of under 42 U.C.S 1983.

15 **(5). The lawsuit was deprived by KER impose influence to Supervisor twice hold**  
 16 **on Plaintiff's opposition summary judgement intentionally, which not show ROA**  
 17 **docket. Appellant Court cannot review due to without summary judgement**  
 18 **records. There was cannot fully adjudicated by Superior Court and Appeal Court.**  
 19 **Therefore, Granted Summary Judgement by Superior Court was baseless.**

20 Appellant Court's Opinion: *"In addition, Fan's allegation she opposed the summary*  
 21 *judgement which are new evidence submitted after the ruling on the summary*  
 22 *judgment, which we cannot consider in reviewing the ruling."* See Opinion's page five.

23 Also, from Appellate Court Opinion: *"The City filed a motion for summary*  
 24 *judgement, the motion is not in the record. Nor is Fan's opposition to the summary*  
 25 *judgement record motion, if any."* See Appellant Court Opinion's page two.

26 Granted Summary Judgement by Superior Court was baseless, due to KER impose  
 27 influence to Court supervisor (we do not know each other) twice stopped Plaintiff's  
 28 opposition summary judgement filings to ROA Docket Intentionally. Therefore,  
 granted summary judgement only based on the City opinion, that totally untrue, unfair.



1 On December 4, 2020, KER files "Notice of Ruling": *"having fully considered the*  
 2 *arguments of all parties, both written and oral, as well as the evidence presented, the*  
 3 *court offered its ruling."* "How can in five minutes to have fully oral argument and the  
 4 Judge George has not read my file due to Supervisor twice stopped to ROA docket.

5 Undeniable evidence to proof KER was truly under penalty of perjury. He in serious  
 6 violation in due process, deprived Plaintiff's civil right for fair trial, children's safety.

7 Thereafter, Plaintiff filed: "Petition for Rehearing." I argued untimely and articulate  
 8 intelligible legal argument issues, add on three citations. Defendant no any response for  
 9 the Petition of Rehearing, Appellant Court told me I should file: "Petition for Review"  
 10 to Supreme Court of California in San Fransico. I filed, the City has no response again.

11 Why the Orange Couty need Superior Court?

12 Why we are people need respectful and trustworthy Judges?

13 Because is to adjudicate legal disputes between parties,

14 If the lawsuit only based on one party's opinion, consequently,

15 Granted summary judgement was invalid, any based on one party's ruling, is baseless.

16 Also, Section 1983 allows claims alleging the "deprivation of any rights, privileges, or  
 17 immunities secured by the Constitution and federal laws."

18 After dependent filed opposition of summary judgement, absolutely, Plaintiff have  
 19 civile right to file of the deposition summary judgement, but TWICE (that to proof he  
 20 was intentional) hold on by supervisor Stacy that twice to deprive plaintiff's Citizen's  
 21 civil right to pursuant fair trial. Granted summary judgement is baseless due to no  
 22 opposition's legal arguments and no court trial. Also, Plaintiff to stand up for ongoing  
 23 legal actions that KER conducts deprived the plaintiff of rights, privileges, abusive  
 24 immunities to shields sham exceptions, that guaranteed under the U.S. Constitution.

25 We can imagine, if we follow the court trial scheduled on 1/26/2021, the City can  
 26 have the court order, which put up warning sign is the must, then I can feel released,  
 27 otherwise, I really warried most of days if I have time. If as soon as possible to prevent  
 28 anybody do not go through what I have been through, the City can be better reputation.

II. KER abusive the Noerr-Pennington doctrine immunity, he thinks he can  
 shield harass, extortion, torts, threaten to file frivolous lawsuit, deceived  
 the Judgement timely to untimely between courts, under penalty of  
 perjuries. Absolutely, KER repeatedly conducted sham exception Applies

**(1). KER abusive Noerr-Pennington doctrine, cannot shield his conflicts in interest, collect monetary of two parties, unlawful representations, sham exception**

In the later year 2019, KER charged \$9,500 his legal fee, and split 50/50, billed Plaintiff and the City make payments. He seems a business man in the middle, and collect monetary from both parties. Even I did not have any agreement in written or verbally with legal service, but he still against the law to truly conflict of interest.

“What was he representing for?” “Is the city having knowledge that?” I asked the questions number of times, truly was so shocking with shameful.

It was so painful, like a knife to cut off my heart. I extremely worried, if lawyers same as he does, soon can be corrupt our county’s build up great legal system. The system fundamentally is Equality for People’s civil right in due process for fair trial.

Fortunately, Judge Salter, disallowed the bill charged to Plaintiff, to proof KER was so greedy, tort plaintiff is self-represented, Since, I separate between the City and KER.

**(2). KER consist of repetitive tort; threaten Plaintiff the lawsuit claims meritless.**

On April 13, 2023, KER email: “the *Appellate Court Judges thought your claim was entirely without merit*” Plaintiff requested KER’s answer. See Federal Question #16,

“Where, when and what’s names of Appellant Court’s Judges told you about their thought the claim was entirely without merit? Why I cannot find such common from Appellate Courts opinion”? Up to date, KER still cannot name of Judges told him about their thought. This email is undeniable evidence to proof KER continue in serious violation in due process to deprive Plaintiff’s Civil right for fair trial and children’s safety. “Why KER cannot stop outright lies about the Appellate Court Judges during in FRCP 26(f)(J) discovery processes in the Court for the United State?” Why? Why?

For the such, “How can he represent City of Newport Beach respectfully?”

**(3). KER continue use fake anonymity letter(s), to tort and threaten to deprive Plaintiff’s Civil Rights to have fair trial, insult, defamation, sham exception applies**

On October 17, 2023, KER emailed: “the City is even receiving anonymous letters warning that you are trying to commit fraud. It is very sad that you have taken this approach and have chosen to abuse the court system.”



1  
2 KER, if you have anonymous name and more letters, please show to the Court and  
3 Plaintiff all want to know what are you hiding in behind. If you consistent to refused  
4 answer, the undeniable evidence to proof these are all scams, and you commit fraud.

5 On February 7, 2022, KER emailed anonymity letter, he continues use fake person have  
6 false accusations, harassment, insulting and defamation of Plaintiff's reputation and life.

7 I tried ask KER have True or Fals answer the anonymity in front of judges in  
8 Appellant Court. but did not allow too. I still want to know who is the anonymous,  
9 otherwise, all undeniable evidence to proof KER is the one scammer, truly sham  
10 exception applies. The anonymous accused: *"She makes her living off suing people,"*  
but, the only injury lawsuit on May 15, 2018. I have no injury, free accident, and good  
driver in my life.

11 KER continue to insult: *"Plaintiff deliberately broke her leg and to get rich."*  
12 That time, before injured, I worked two CPA firms, that was 14 hours a day during the  
13 tax season. See attached two 1099 from CPA firms in 2018 which both of earned before  
injury "How can I have time to plan to broken my leg to get rich?"

14 Certainly, anonymity does not know which part of my body broke, but know my  
15 intention to deliberately to injury of my-self to get rich. I have my job I love so much,  
16 that need take a lot of time to keep up too. "Why should I break my leg to get rich?"  
Do I have time, do I stupid to do so? Really does not make any sense, only evil can be.

17 My moral standard and my reputation are very important part of my life. For the  
18 emails as evidences to proof KER is the fake anonymity, conducted scandals, to deprive  
Plaintiff's civile right for the fair trial, punitive damage and sham exception applies

19 **(4). KER threaten to garnish disallowable Deposition Cost \$3,776.24, to pursuant**  
20 **CCCP1033.5(b)(2). To proof he is intention tort, extortion, sham exception applies**

21 KER knowledges the deposition cost is disallowable by pursuant CCCP. 1033.5(b)(2):  
22 *"The following items are not allowable as costs, except when expressly authorized by*  
23 *law" (2). Investigation expenses in preparing the case for trial."*

24 On August 12, 2020, spent all day deposition in KER's office for the coming trial on  
25 January 26, 2021, that was scheduled by Judge Salter.

26 Deposition it is part of the discovery process is formal investigation conducted to  
27 uncover more the case. "Who need service, who must responsible payment" Period!

28 On March 2, 2023, Judge Salter's final ruling: *"The defendant claimed \$3,776.24 in*

1 *deposition cost, the burden of proof rests with the moving party to show the costs are not*  
 2 *statutorily authorized or were unnecessary of not unreasonable under the facts."*

3 The Deposition cost was original attached with KER filed "notice of ruling" on  
 4 December 4, 2020, even that disallowable cost, to pursuant law CCCP. 1033.5(b)(2),  
 5 but KER still against law and ignored Judge's Court judgement again.

6 Undeniable evidence from July 24, 2023 and email on October 17, 2023 to proof KER  
 7 unthinkable to abusive the Noerr-Pennington doctrine, he thinks he can shield his  
 8 intentionally against law, even CCCP 1033.5(b)(2) ruled, but he is consistently using his  
 9 attorney's power, to extortion to garnish payment. shameful and sham exception applies.

10 **(5). Because KER refused to respond Federal Seventeen Questions, therefore, he**  
 11 **admitted in Perjury, to impose manipulated influence between judges and Court**  
 12 **Supervisor to hold my files, did not scan to ROA docket, to deprive my Civil Right**  
 13 **for due process to have fair Trial and children's safety! sham exception applies.**

14 Since April 4, 2023, honorable Judge Slaughter ordered setting rule 26(f) for joint  
 15 report, Plaintiff request federal questions under section (J) discovery plan:

16 Requested KER responding seventeen questions.

17 On April 18, 2023, Plaintiff emailed questions, let KER answer first, to make sure when  
 18 Amber written the joint report be truthfully to represent to Federal Court.

19 On May 11, 2023, submitted Joint report, including Federal fifteen Questions.  
 20 On June 5, 2023, Plaintiff file the Initial Disclosure Obligation for KER Responding total  
 21 seventeen questions, add two questions, due to KER's emailed and May 15, 2023, and On  
 22 April 13, 2023. KER emailed "*The appellate court judges thought your claim was*  
 23 *entirely without merit*" Plaintiff and Federal Court all demand his answer, because I  
 24 cannot find such common from Appellant Court's Opinion. Also, request: "What's name  
 25 of judges told him about their thought? KER refused respond the questions up to today.

26 On July 14, 2023, Plaintiff emailed to KER office that to Request second time for  
 27 discovery obligation to pursuant FRCP 26(f)(j) total Seventeen Federal Questions.

28 On August 8, 2023, this is for fourth time to request KER respond seventeen questions



1 From time to times, in four months, KER still refuses respond under F.R.C.R. 26(f)(j).

2 KER is attempting to circumvent discovery for answering all the questions.

3 Plaintiff and Federal Court all demand his answer. Otherwise, seventeenth federal  
4 questions as all evidence in support to proof KER in violation in due process, that is  
5 designed to protect individuals from government rather than from one another.

6 For all reasons, the motion is continuing for scheduled on May 16, 2024 to pursuant  
7 Citizen Civil Right to pursuant court trial for fair justice and for children' safety.

8 All undeniable evidence to proof KER abusive the Noerr-Pennington doctrine, cannot  
9 shield his imposing influence in Courts to deprive Plaintiff's Civil Right, serious violate  
10 in due process, under penalty of perjuries, shameful and sham exception applies.

11 **III. Eleventh Amendment does not apply. I have no attention for challenge**  
12 **entire state court system. Employees are good. Only the documents filed**  
13 **twice for deposition summary judgement hold by supervisor Stacy,**  
14 **which cannot show on ROA docket. That evidence to proof Deprive**  
15 **Plaintiff's Civil right for fair trial and children's safety.**

16 On May 11, 2023, both parties filed FRCP 26(f) joint report, under (j) Discovery Plan,  
17 Plaintiff request the First question: "*Why KER let Orange County Superior Court*  
18 *Courtroom Operation Supervisor Stacy D. Secours hold twice for Plaintiff against*  
19 *summary judgement on 11/18/2020 and 11/24/2020? Please do not twist truth again, I*  
20 *have no attention to challenge Orange County Superior Court "entire system."* I only  
21 want have your answer from Supervisor Stacy: "*Who told you that twice hold on*  
22 *Plaintiff's against summary judgement files not show on ROA docket?*"

23 On March 24, 2023, docket #16, "Why Plaintiff filed amendment complain including  
24 Orange Court Superior Court in the City of Santa Ana as second Defendant?"

25 Because I tried to subpoena Supervisor Stacy by document or appearance in front of  
26 judges to answer the same question as above. But, for some reasons, I still cannot have  
27 his and KER's answers. It was why I add on Superior Court as second Defendant, wants  
28

1 the Court knowledges how serious violation in due process, especially for the such  
 2 important position. It was why I filed three time-complaint to Presiding Judge in the  
 3 Superior Court for the matter of subject investigation. Which to protect Court filing  
 4 system to follow the “no one can deprive life, property, civil right without fair trial.”

5 Because KER impose influence to the Court legal professional, (Supervisor Stacy and  
 6 Judge Gero) both engage in violation in due process, even they have immunity, but  
 7 they must obey and follow the court rules. As a good heart and trust worth Citizen, has  
 8 duty, must stand up let head of Court and high court knowledge the truth.

9 During the Pandemic, Court filing system changed from windows to dropped files to  
 10 baskets in Court lobby, and clerks collected files to scan to ROA docket later.

11 On 11/18/2020, after I dropped opposing summary judgement files into the basket, I  
 12 asked Court clerk Candice signed her name to proof the Court received my file. After I  
 13 out of court building, I sent same copy to KER’s office, attached a note: “next day  
 14 when I received stamped cover page, I’ll send to your office”

15 Because after KER received my note, knowing the Court filing system changes, the  
 16 engage in conspiracy is planning started, and I checked my file everyday if in docket.

17 On 11/24/2020, after a week, I was very worried my document still not show in to  
 18 docket, Court clerk Susy emailed to Candice, “Where was her file?” “Why did not  
 19 show on ROA docket?” Susy told me: “Supervisor hold on your documents”

20 I asked: “Why hold on my files?” “What is name of Superior?” Suzy was not sure,  
 21 but suggests I should file again. So, I dropped documents in second time and asked her  
 22 signed name and date to proof the document was received by the Court.

23 Both Court Clerks are very good employees and presented good attitudes and service.  
 24 Both Court Clerks signed name and date, as evidence to proof the Court received  
 25 Plaintiff filed opposition of summary judgement, but the only one why cannot show in  
 26 to docket? It is the most important documents that opposition summary judgement  
 27 which to deprived Plaintiff’s civil right for fair trial it was scheduled January 26, 2021  
 28



1 Before December 3, 2020, summary judgement Courtcall hearing, I was very worried,  
 2 I almost every day to the Court to check when my document can scan to ROA docket.  
 3 I forgot stamped cover page already, only think about: "what was wrong?" "Why my  
 4 file hold by supervisor?" "Why cannot in ROA docket?" I asked number of clerks, one  
 5 of Court clerk asked: "Are you the one have motion on 12/3/2020 at 1.30 afternoon?" I  
 6 said: "yes," she said: "your files sitting on Supervisor's desk" I asked: "Can you return  
 7 my documents?" She said: "No, nobody can touch it." I asked: "Why? What's name  
 8 supervisor? She wrote down his name: "Stacy." I keep her note as evidence to make  
 9 sure the name of Supervisor, "Who told him to hold on my file?"

10 After Pandemic over, I tried number of times at window, want see and ask Stacy,  
 11 "Who told you to hold on my file?" "What was the reason for?" But still unable to see  
 12 him, and cannot ask him question. When I want subpoena him, I must know his last  
 13 name, then executive officer been very helpful, let me have his last name, then I fill in  
 14 three times subpoena forms to let him answer the question by document or see judges.  
 15 He to violated in due process in such important position, was truly influenced by KER.  
 16 All employees good helped if have some error, after correction all show in to docket

#### 17 **IV. HISTORY OF FILINGS:**

##### 18 **1). Filing History in Superior Court in Orange County in Santa Ana**

19 On May 15, 2018, Plaintiff slip fall/pothole, broke bones injury due to underground  
 20 sand with frequently rising tides, submerge compact sand, clay like concrete is surround  
 21 the Lifeguard stand without warning sign in children's Marina Park in Newport Bay.

22 On May 24, 2019, after a little bit a year, Plaintiff filed a lawsuit in timely in Superior  
 23 Court of Orange County.

24 On August 12, 2020, Deposition all day for prepare coming trial on January 26, 2021.  
 25 Plaintiff be honest which no any of objections and responded all the questions truthfully.

26 On September 21, 2020, Defendant filed the Summary Judgement. Attached  
 27 declaration from Mike Halphide, he works for the city for 36 years, as fire department for  
 28 lifeguard operation. He declared: "*Sand, by its very nature, becomes more tightly*

1 *compacted after it has been wet or submerged by rising tides. Consequently, the sand on*  
 2 *the by beaches and surrounding the Tower is denser and more tightly compacted."*

3 On November 18, 2020, Plaintiff files to against Summary Judgement.

4 During Pandemic, Court filing system changed from windows to drop documents into a  
 5 box at lobby in Court building. Fortunately, I asked Court Clerk Condense sign her name  
 6 to proof the Court received my filing. Same time, she told me I can received stamped  
 7 copy in next day. After I out the court building, I straightway to post office, sent the same  
 8 copy to KER's office and wrote a note: "After I received stamped copy, I'll send to you."

9 On November 24, 2020, after a week, I still no see last week I filed in docket, I asked  
 10 Court Clerk Susy: "Why I filed a week ago documents, still not show in ROA docket?"  
 11 She emailed to Candice, and been told: "Supervisor hold on you file?" I asked "Why?"  
 12 "What is the name of Supervisor?" she was not sure, and suggested I should file again.

13 On December 3, 2021, only in five minutes she granted Summary Judgement Courtcall  
 14 hearing by Judge Geoge, she only once for the case. Without Plaintiff against summary  
 15 judgement documents, without oral argument, the tentative ruling only based on the  
 16 City's Opinion. After she granted summary judgement and KER only said: "Thank you  
 17 your honor" I was emotional: "that not fair, that only for one big party ruling"

18 she just continue ignoring me, and went to next case.

19 On December 4, 2020, KER filed Notice of Ruling: *"The Court, upon hearing the oral*  
 20 *arguments, and after having fully considered the arguments of all parties, both written*  
 21 *and oral, as well as the evidence presented, the Court offered its ruling"*

22 "How can in five minutes having fully arguments written and oral for both parties?"  
 23 Same time, Plaintiff's written argument still hold by Supervisor Stacy.

24 The evidence to proof KER under penalty of perjury and serious violation in processual  
 25 in due process to deprive Plaintiff's citizen's civil right.

26 On December 7, 2020, after four days, I filed Contest the Tentative Ruling, I emailed to  
 27 KER, but he denialed that he never receives it, but I have email to proof he did receive it

28 On December 15, 2020, Mandatory Settlement conference presiding by Judge Salter,



1 but vacated due to Defendant did not joint.

2 On January 8, 2021, KER files propose order for granted summary judgement to  
3 Judge Slater, of course, Judge Salter did not sign.

4 On January 20, 2021, KER files propose order for granted summary judgement to  
5 Judge George, he lied she is in the courtroom C22, but she is in courtroom C24.

6 On January 25, 2021, Judge Salter reschedule Court trial from 1/26/2021 to 3/29/2021.

7 On March 3, 2021, Judge George only once for the case, she signed KER drafted  
8 proposed order to granted summary judgement, that was baseless and invalid due to only  
9 the City's opinion and deprived Plaintiff's Civil Right.

10 On March 4, 2021, see docket dismissed Court Trial scheduled on March 29, 2021.

11 On March 23, 2021, Plaintiff filed Ex Parte, hope if have chance in continue to court  
12 trial on March 29, 2021. Suddenly, silence cannot hear and cannot see anything due to it  
13 was courtcall hearing. After I made reservation to vacate Summary Judgement.

14 On April 19, 2021, KER filed Motion for Sanction in first time, threaten Plaintiff must  
15 withdrawal the motion before May 5, 2021, otherwise file the Sanction "as appears  
16 Plaintiff has been filing and serving frivolous papers."

17 On May 24, 2021, KER filed Motion for Sanction in second time, because it is a  
18 wrongful motivation for the revenge, so accusations, outright lies in beginning to ending.

19 On June 17, 2021, Judge Salter post judgement: "*Given one of the arguments is that*  
20 *Fan was not afforded the opportunity to engage in oral argument on the summary*  
21 *judgement motion, the court concludes must allow the motion to proceed as timely filed.*"  
22 Additionally, "*for her remedy, it is time to file a notice of appeal.*"

## 23 **2). Filing History in Appellant Court of California in Santa Ana:**

24 On June 23, 2021, after six days, Plaintiff filed notice of Appeal to Appellant Court.

25 On November 4, 2021, after four-month from Judgment of June 17, 2021, KER filed  
26 dismiss appeal, conclusion: "*dismiss the appeal with prejudice as it is untimely.*"

27 Undeniable evidence to proof KER is under penalty of perjury from timely to  
28 untimely between courts from Superior Court to Appellant Court in Santa Ana.

1 On February 7, 2022, KER email an anonymity letter insulting Plaintiff consistently.  
 2 Such as: "*Plaintiff suing people for living, injury herself to compensate for a lot of*  
 3 *money.*" I have no lawsuit and no injury in my life. This time injury is the exceptional.  
 4 If the city has warning sign, I cannot break bones, due to I observed warnings carefully.  
 5 If I ignoring the warning sign, dropped down WET in under, slip/fall, I have no case.  
 6 Also, from driving record, I am a good driver and good driver, no accident, always.

7 I worked for two CPA firms, that was 14 hours a day during the tax season. "How can  
 8 I have time to plan to broken my leg for get rich? Certainly, anonymity does not know  
 9 which part of body I broken, but know I delivery to injury my-self on my leg?

10 To deal evil motive, deformation, 'punitive damage is the must, sham exception applies

11 On August 23, 2022, dismiss Appeal with Opinion of Appellant Court, the reason was  
 12 untimely filed and not intendable articulate have legal argument. Before injury, my dule  
 13 languages are huge plus for the Job I love so much. After injury, lost the confidence,  
 14 lost good memory, all rely on good health and keep up high energy level.

15 On September 6, 2022, I filed Petition of Rehearing, additional for three citations,  
 16 Corrected the untimely is not exist, "how the KER deceived on judgement from timely  
 17 to untimely between two courts." hope if Appellant court can reverse the decision made  
 18 But, no responding from the City for the "Petition for rehearing," after fifteen days,  
 19 Appellant Court dismissed the appeal and suggest I should file to Supreme Court.

### 20 **3). Filing History in Supreme Court of California in San Francisco.**

21 On October 3, 2022, Plaintiff filed: "Petition for Review" to Supreme Court in San  
 22 Francisco, and the city still no any of respond again.

23 On November 10, 2022, The Supreme Court simply denialed Petition for Review,  
 24 with no opinion. I called and told: "The court is very busy, a hundred cases a day," no  
 25 time for the review. They suggested I should file to Federal Court with new evidences.

### 26 **4). Filing History in the Court of United State in Santa Ana.**

27 On December 2, 2022, Plaintiff file New Complain with new evidences.

28 New evidences dated on January 18, 2021 and July 31, 2022, to proof children



1 play jump up down on the subject from have warning to no warning again, that to proof  
2 the City is intentionally, leave the children who play there at the risk.

3 On May 11, 2023, both parties filed Joint Report to pursuant FRCP 26(f) and (j), for  
4 Federal Questions, but KER still refused response seventeen questions which Requested  
5 by Plaintiff Pursuant F.R.C.P. 26(f) (J) under discovery section since on April 18, 2023.

#### 6 **V. Premises Liability claim is applied, it is in one and half years**

7 From June 17, 2021, Superior Court of Orange County assigned Judge Salter post  
8 judgement: "the court concludes it must allow the motion to proceed as timely filed."  
9 and "for her remedy, if still timely, **is now to file a notice of appeal.**"

10 On December 2, 2022, Plaintiff filed with new evidence at Federal Court, from June  
11 17, 2021 to December 2, 2022, in one and half-years, to proof Premise Liability Apply.

12 From May 15, 2018 to December 2, 2022, from injured to filed with new evidences  
13 in Federal Court in four and half years, Plaintiff following low court to high court's  
14 instructions, did not missing one step.

15 From it is ongoing legal action, all for the one purpose, which is for Citizen's Civil  
16 Right to have Court trial for fair justice and for children's safety.

17 Plaintiff truly cannot accept the way to deprive of my Civil Right, and totally do not  
18 want see evil motive to abusive our country's great legal system, especially, they are  
19 legal professionals, we must stand up for our duty to prevent virus to corrupt ours  
20 beautiful County. Fair justice is our time dream for! Equality is our society stand for!

21 The Court for the United State, should continue for scheduled trial on May 16, 2024.

22 From Section 1983 Elements and Liability Standards A. **"Every person who, under**  
23 **color of any statute, ordinance, regulation, custom, or usage, of any State, subjects,**  
24 **or causes to be subjected, any citizen of the United States or other person within**  
25 **the jurisdiction thereof to the deprivation of any rights, privileges, or immunities**  
26 **secured by the Constitution and laws, shall be liable to the party injured in an**  
27 **action at law suit in equity, or other proper proceeding for redress."**  
28

1 **VI. CONCLUSION**

2 Granted summary judgement was baseless, due to KER evil motive, unbearable  
3 and un-human to deprive Plaintiff's civil right to fair trial. KER impose influence the  
4 Superior Court Supervisor Stacy who twice hold on Plaintiff's opposition summary  
5 judgement documents that to stopped to scan into ROA docket. And Judge George,  
6 only once for the case, granted summary judgement in five minutes verbally.

7 On June 17, 2021, Judge Salter post judgement: *"Even so a citizen has right to*  
8 *petition its government on matters that fall within the jurisdiction of the government*  
9 *entity. The court is reluctant, under all these circumstances, to impose sanctions*  
10 *against Fan.'* and, *"for her remedy, it is time for notice of appeal."* It was too late, for  
11 assigned Judge to reversed the court trial. It is why Presiding Judge of Superior Court  
12 written a letter: "Who (judges)was errored, let high Court to decided."

13 Appellant cannot review due to no record of Summary Judgement; it was truly baseless.

14 The motion is must continue due to KER has not Response Federal seventeen Questions

15 Fortunately, Plaintiff filed lawsuit in the Court for United States on December 2, 2022.

16 The Premise Liability was in timely filed in one and half years. I cannot accept deprive  
17 Plaintiff's Civil Right again, and I never give up on the Children's Safety. Evidence to  
18 proof the city is intentionally no warning again, leave dangers who play there at the risk.

19 The Due Process Clause of the Fourteenth Amendment is states that no person shall be  
20 "deprived of life, liberty, or property without fair procedures in due process of law."

21 Plaintiff determine to pursuant fair trial, that scheduled on court trial on May 16, 2024.

22 I declare under the penalty of perjury under the laws of the united State that foregoing  
23 is true and correct.

24 **Respectfully and Truthfully Submitted**

25 **YAXIAN FAN**

26 BY: 

27 DATED: October 31, 2023

28 Plaintiff in Self - Represent



Exhibit One:

KBR's email as evidence to threaten Plaintiff  
dropped the lawsuit, otherwise, He files the trivolous lawsuit  
lawsuit: See October 17, 2023 Email.

On April 27, 2021, if plaintiff doesn't withdraw the Motion

KBR files Section seven trivolous papers

History always Repeats! Happened again in two and  
half years

Evidence to prove KBR's evil motive to deprive my  
CITIZEN'S CIVIL rights to have fair Trial for children's  
Safety!

Fwd: Disallowable cost for deposition

From: Fay (fay731@yahoo.com)

To: fay731@yahoo.com

Date: Sunday, October 22, 2023 at 10:22 AM PDT

**From:** "Keith E. Rodenhuis, Esq." <keith@kerlegalgroup.com>

**Date:** October 17, 2023 at 18:27:17 GMT-7 \*

**To:** fan Fay <fay731@yahoo.com>, Amanda Ellis <Amanda@kerlegalgroup.com>, Amber McCall

<Amber@kerlegalgroup.com>, cnbfan\_federal@projects.filevine.com, Rodger Greiner <Rodger@kerlegalgroup.com>

**Subject:** RE: Disallowable cost for deposition

Fay,

Given you are not an attorney it is understandable, but you are wrong on the law – again. No court has *ever* ruled in your favor – not even once, on any matter, at any time – and there are legal consequences for those that bring false and frivolous lawsuits. The consequences are you must pay the City for the costs it incurred defeating your unsupported and meritless lawsuit(s). *15 Deposition Cost disallowable \$2663.5 (b)(2)*

Everybody is now aware you are being dishonest; the City is even receiving anonymous letters warning that you are trying to commit fraud. It's very sad that you have taken this approach and have chosen to abuse the court system.

I encourage you to stop making false statements and to drop the lawsuit pending before \* Judge Slaughter or you may face additional financial consequences for the (second) \* frivolous lawsuit you have filed against the City. At the mediation the City offered to waive the monies that you already owe if you dropped the pending lawsuit but instead you demanded tens of thousands of dollars. It was a wasted opportunity on your part.

Please reconsider and do the right thing which is also in your best interests. Please also submit payment to the City for the monies the Court says you owe.

Respectfully,

Keith



KER

KER Legal Group

2601 MAIN ST. • SUITE 560 • IRVINE • CA 92614

April 27, 2021

**SENT VIA USPS & EMAIL <fay731@yahoo.com>**

Ms. Ya Xian Fan  
6 Ivy Lane  
Irvine, CA 92602

**RE: FAN V. CITY OF NEWPORT BEACH  
SECOND NOTICE OF CITY'S MOTION FOR SANCTIONS**

Dear Ms. Fan:

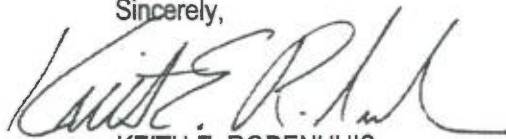
Enclosed as Exhibit "1" is the Court's April 22, 2021 Minute Order continuing the hearing for your "Motion for Vacate Wrongful Judgement Made By Temporary Judge Georage on 3-3-2021 and Continue for the Court Trial," ("your Motion") until June 3, 2021.

As you are aware, on April 14, 2021, our firm served you with the City's Motion for Sanctions regarding your Motion filed on March 29, 2021. As explained in the City's Motion for Sanctions, your Motion is both factually and legally frivolous. If your Motion is not withdrawn within 21 days, or May 5, 2021, the City will file its motion with the Court and the Motion for Sanctions will also be heard on June 3, 2021.

We write this correspondence as a courtesy to notify you, once again, that if you do not withdraw your Motion before May 5, 2021, the Court will hear the City's Motion for Sanctions. Based on the Court's April 22, 2021 ruling (enclosed), which states "as it appears Plaintiff has been filing and serving frivolous papers, Defendant may be entitled to sanctions" the Court will likely be inclined to sanction.

As such, we strongly urge you to avoid sanctions by withdrawing your Motion and submitting payment to the City in the amount ordered by the Court on March 3, 2021. Again, if sanctions are granted, it will mean that you will owe the City even more money than what you owe at this time.

Sincerely,



KEITH E. RODENHUIS  
Attorney for Defendant  
The City of Newport Beach

Enclosures: as stated herein  
KER:acm

*To proof KER Legal Group  
why file sanction if plaintiff does not  
withdraw the motion before 5/5/21*

*To proof why file frivolous paper  
if plaintiff does not withdraw the motion  
to vacate summary judgement before 5/5/21*

PHONE: 949.2.LAWYER (252.9937) • FAX: 949.292.4576 • KERLEGALGROUP@GMAIL.COM

*This is serious violate Plaintiff's Citizen Civil Right to pursuit  
continue to Court Trial for fair Justice!*

Exhibit: Two

Evidences to proof KZR was under Penalty of

Perjury @ on December 4, 2020, KZR filing:

"Notice of Ruling: Having fully argument oral, only in

five Minutes, Summary Judgements hearing "How can do so?" ~~still~~ no answer

Written not to Rest Doctet. hold by Superior. Stacy.

Granted Summary Judgements is baseless.

② Evidence to proof KZR deceived Judgements  
from timely to untimely between Courts. Perjury again.



**KER LEGAL GROUP****Keith E. Rodenhuis, Esq. (SBN 254465)****Amber C. McCall, Esq. (SBN 317892)**

2601 Main Street, Suite 560

Irvine, CA 92614

Ph: (949) 252-9937

Fx: (888) 292-4576

Attorney for Defendant,  
City of Newport Beach**SUPERIOR COURT OF THE STATE OF CALIFORNIA****FOR THE COUNTY OF ORANGE – CENTRAL JUSTICE CENTER**

YAXIAN FAN

Plaintiff,

vs.

CITY OF NEWPORT BEACH

Defendant

Case No.: 30-2019-01072057-CU-PO-CJC

**NOTICE OF RULING ON DEFENDANT  
CITY OF NEWPORT BEACH'S MOTION  
FOR SUMMARY JUDGMENT****Dept.:** C22**Judge:** Hon. Glenn Salter**Action Filed:** May 24, 2019**MSJ:** December 3, 2020**NOTICE TO ALL PARTIES AND THEIR ATTORNEYS:**

This matter came on regularly for a Summary Judgment motion on December 3, 2020 in Dept. C-22 of this Court, located at 700 Civic Center Dr., Santa Ana, CA 92701.

Keith Rodenhuis of KER Legal Group on behalf of DEFENDANT CITY OF NEWPORT BEACH and PLAINTIFF YA XIAN FAN on behalf of herself appeared and presented oral argument.

*only five minutes court call hearing, how can have oral argument?*  
 \* The Court, upon hearing the oral arguments, and after having fully considered the arguments of all parties, both written and oral, as well as the evidence presented, the Court offered its ruling.


Defendant City of Newport Beach's Motion for Summary Judgment was GRANTED. A copy of the Court's ruling is attached as Exhibit "A".

*This is evidence to prove KER's perjury on oral argument*

1 The Court ordered Defendant to prepare a Notice of Ruling.

2  
3 DATE: December 4, 2020 ~~A~~

KER LEGAL GROUP

4  
5  
6   
7 KEITH E. RODENHUIS, ESQ.  
8 Attorney for Defendant,  
9 CITY OF NEWPORT BEACH

10 December 3, 2020, Summary Judgment Court call  
11 hearing only in five minutes, "How can have  
12 fully considered the arguments of all parties,"

13  
14  
15  
16 This is an evidence to prove KER under  
17 penalty of perjury.  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28



supra, 163 Cal.App.3d at p. 1119.

This is <sup>an</sup> evidence to ~~prove~~ <sup>prove</sup> KER  
CONCLUSION under penalty of perjury

For the reasons set forth above, this appeal is untimely and  
the Court lacks jurisdiction. Moreover, Appellant's Opening Brief  
fails to articulate any pertinent or intelligible legal argument. As

Because based on one party, only on City's opinions.  
That totally untrue and unfair.

such, Respondent respectfully requests the Court dismiss this

appeal with prejudice as it is untimely - under penalty of perjury \*

Date: November 4, 2021

Respectfully Submitted,

Five months

June 17, 2021

KER Legal Group



Keith E. Rodenhuis  
Attorney for Defendant and  
Respondent City of Newport Beach

Assigned Judge Satter,  
concludes it must allow  
the motion to proceed  
as timely. Filed on June 17, 2021.

after six days, I filed notice of appeal on June 23, 2021

To prove Appeal Court's opinion only from the City.

That copied KER Legal's conclusion. "where is

Appeal Court's own opinion, after open Brief,?

As an evidence to prove Appeal Court is the City of New  
port Beach's favoritism, Careless on children's safety.

I filed  
on 3/11/2021  
and 3/17/2021  
rejected, by  
drog off the box  
or email only  
file at 1st floor  
window OK

wrongful judgment." But the only extant document in the file is the clerk's rejection. (RAO 190.) Fan made several other requests to bring her claims as to the alleged wrongfulness of the judgment to the court's attention, but they were all rejected by the clerk's office for noncompliance with the Rules of Court.

On March 26, 2021, Fan filed a motion to vacate what she termed a "wrongful" judgment. (RAO 205.) Apparently, this was after Judge Oberholzer denied her ex parte request to continue trial of a matter that had been dismissed. (See RAO 203.) She attempted to file a new motion to vacate on May 17, 2021, but that was rejected for failure to pay a filing fee and because there was already a motion to vacate on calendar. (See RAO 225.) I paid 60, - after clerk asked.

The court understands the plaintiff to make three basic arguments: (1) Judge George was not a "real" judge and, in any event, she was wrong to grant summary judgment under the facts; (2) plaintiff was deprived of the opportunity to engage in oral argument; and (3) there is additional documentary and photographic evidence that proves the plaintiff's case.

Thank you  
for the Court  
understand how  
difficult situation  
is

First, the City argues the motion was untimely filed. It is unclear from the nature of the motions and other documents filed what documents should be considered as the motion now before the court. Because Fan tried to file a declaration raising the issues she raises now right after the judgment was entered, this court is inclined, out of an abundance of caution, to deem the motion timely. Given one of the arguments is that Fan was not afforded the opportunity to engage in oral argument on the summary judgment motion, the court concludes it must allow the motion to proceed as timely filed.

Fan's assertion that Judge George is not a "real judge" and somehow this court had to hear the summary judgment motion is wrong. Judge George is a duly elected judge of the Orange

6/17/2021 from

Assigned Judge: X



## Exhibits Three:

- ① Evidences BEFORE / AFTER
- ② Declaration of Mike Halphide.
- ③ Sand Rules from National Safety Council

Jun 8, 2018, 12:54 PM

BEFORE  
no warning  
no "Keep Off"  
sign



Subject

No keep off sign  
The photo took by  
Former law office  
of Lee & Osejo



AT&T

11:28 AM



# Newport Beach - Balboa Peninsula

December 26, 2020 1:51 PM

Edit

*AFTER*

VAGGIN

*with warnings*

*keep off sign*

LIVE



*"How can divided playground and life guard stand of it no warning sign? very close to each other."*

*photo taken by plaintiff*



1 **Keith E. Rodenhuis, Esq. (SB#254465)**  
2 **Amber C. McCall, Esq. (SB#317892)**  
3 **KER LEGAL GROUP**  
4 2601 Main Street, Suite 560  
5 Irvine, CA 92614  
6 Ph: (949) 252-9937  
7 Fx: (888) 292-4576

8 Attorney for Defendant,  
9 City of Newport Beach  
10 *Exempt From Filing Fees Pursuant To*  
11 *California Government Code §6103*

12  
13 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
14 **THE COUNTY OF ORANGE - CENTRAL JUSTICE CENTER**

15 **YA XIAN FAN**

16 Plaintiff,

17 vs.

18 **CITY OF NEWPORT BEACH**

19 Defendant.

*Reservation No. 73341904*

Case No.: 30-2019-01072057-CU-PO-CJC

**DECLARATION OF MIKE HALPHIDE IN  
SUPPORT OF MOTION FOR SUMMARY  
JUDGMENT**

**JUDGE:** Honorable Glenn Salter  
**DEPT.:** C22  
**LEAD DOC:** ROA No. 130  
**ACTION FILED:** 5/24/19  
**TRIAL DATE:** 1/26/21

20  
21 **DECLARATION OF MIKE HALPHIDE**

22 I, MIKE HALPHIDE, declare as follows:

23 1. I am over the age of 18 and if called as a witness, I could and would competently  
24 testify to the following facts.

25 2. I am the Assistant Chief of the Newport Beach Fire Department for Lifeguard  
26 Operations and have been employed by the City of Newport Beach for over thirty-six (36) years. I  
27 have served as the Chief Lifeguard for two (2) years and served as a Battalion Chief for four (4) years.

28 //



*Due Care = Cover with HUFF sand.  
 Vake sand ~~day~~ daily  
 to avoid slip/fall*

3. My duties as Chief Lifeguard include but are not limited to:

- Administration, supervision and management of all City of Newport Beach Lifeguards including 2 battalion chiefs, 9 captains, 3 officers and approximately 220 part-time, seasonal lifeguards; *always coming & go. cannot make*
- Public health and safety compliance; marine life response; preventative operations; and emergency medical services. *decisions on warning of high tides danger and provide on due care*

#### OVERVIEW OF CITY'S LIFEGUARD ACTIVITY.

4. The City Newport Beach (the "City") has close to 9 miles of beach front: 6.2 miles of ocean beaches and 2.5 miles of bay beaches. Each year approximately 11 million people visit our City beaches. *Same as Oceanside*

5. Attached as EXHIBIT A is an aerial photo of Newport Beach accurately depicting both the oceanside and bay side beaches.

6. On an annual basis City of Newport Beach Lifeguards make approximately 4,000-6,000 rescues, 5,000-8,000 first aid actions and 100,000 – 200,000 preventative actions.

7. The United States Lifesaving Association, America's nonprofit association of beach lifeguards and open water rescuers, has recognized the Newport Beach Fire Department as one an "Advanced Certified Lifeguards Agency." Less than 60 cities across the Country have earned this prestigious designation.

8. Each year, the Newport Beach Fire Department – Lifeguard Division creates an annual report detailing our activities. Attached as EXHIBIT B1-3 are the Newport Beach Lifeguard's Annual Reports for 2017, 2018, and 2019.

#### LIFEGUARD TOWERS

9. Lifeguard towers are critical to Newport Beach lifeguarding tasks including watching and supervising swimmers; assisting in rescues in order to prevent drownings; preventing unsafe activity; and identifying and assisting in medical emergencies. Without the lifeguard towers, lifeguards would not be able to perform their duties and many lives would be at risk.

10. Lifeguard towers are essential to maintaining public safety. Lifeguard towers provide an elevated vantage point so Lifeguards can see over people on the beach and into the water. The towers also provide a way for lifeguards to be identified by beachgoers needing assistance.

1 11. The City has 38 lifeguard towers: 36 on the beach front and 2 on the bayside. As the  
 2 Chief Lifeguard and 36-year veteran lifeguard, I am intimately familiar with the City's towers on both  
 3 the bay and beach and the composition of the surrounding sand. It is the City's policy that only City of  
 4 Newport Beach Lifeguards are permitted to use the lifeguard towers.

5 12. Attached as EXHIBIT C is a true and correct photo of a lifeguard tower on the City's  
 6 ocean front. As depicted in the photo, the distance, or drop, from the platform where the lifeguards sit  
 7 to the sand is approximately six (6) feet.

8 13. Attached as EXHIBIT D is a picture of the lifeguard tower on the bay front. The tower  
 9 depicted is located on Newport Bay Beach near 1600 Balboa Blvd. The tower depicted is the lifeguard  
 10 tower (the "Tower") that the Plaintiff was on the day of the incident.

11 14. The natural contours of the bay leave little room for lifeguard towers; bay side  
 12 lifeguard towers must be stationed closer to the water's edge than the towers along the ocean. (See  
 13 also, EXHIBIT A).

14 15. The Tower is over 80 feet from the nearest Marina Park play equipment. It could not  
 15 easily be confused with the Marina Park playground.

16 16. As depicted in EXHIBIT D, the maximum drop from the Lifeguard Tower platform to  
 17 the sand is approximately five (5) feet.

#### 18 SAND

19 17. Waves, tides, wind and other acts of nature determine the composition and compactness  
 20 of beach sand.

21 18. The natural composition of the sand on the City's bay beaches, including the sand  
 22 surrounding the Tower, is slightly more compact and claylike than the ocean front beaches. This is a  
 23 natural occurring condition and phenomenon; the City cannot, and has not, done anything to change  
 24 the composition of the sand. *The City rake sand every day and cover it with some*  
*that prevent slip/fall! It's why we all safe*

25 19. As a result of naturally occurring tides, the sand on the bayside beaches will frequently  
 26 be submerged during high tides. *at Ocean*  
 27 *Side* As a result of this naturally occurring phenomenon, the sand  
 28 surrounding the Tower depicted in EXHIBIT D is also frequently submerged during high tides.



1           20.   Sand, by its very nature, becomes more tightly compacted after it has been wet or  
2 submerged by rising tides. Consequently, the sand on the bay beaches and surrounding the Tower is  
3 denser and more tightly compacted.

4           \*21.   The City cannot, and has not, done anything to change the composition of the sand.

5                                   **NOTICE & PRIOR OCCURRENCES**

6           22.   It is City of Newport Beach policy for the Lifeguard Department to notify City of  
7 Newport Beach officials if it discovers a safety hazard on any property. Similarly, our battalion chiefs,  
8 captains, officers and part-time lifeguard are trained to report hazards which they identify.

9           23.   At no point in my three-decade career as a lifeguard with the City, including my tenure as  
10 the Chief Lifeguard, have I identified the Tower or sand surrounding the Tower as a risk to patrons  
11 using due care. Similarly, no other Newport Beach lifeguard has reported either the Tower or sand as a  
12 risk to patrons exercising due care.

13           24.   To my knowledge and the knowledge of the lifeguards assigned to the Lifeguard Tower,  
14 the sand was at all times safe for visitors using due care.

15           25.   To my knowledge, there are no records of anyone being injured from intentionally  
16 jumping off *any* of the City's lifeguard towers.

17           26.   To my knowledge, there are no records of anyone complaining about the depth,  
18 condition, or density of the bayside sand.

19  
20           I declare under the penalty of perjury under the laws of the State of California that the foregoing  
21 is true and correct.

22  
23           Executed this 16<sup>th</sup> day of September 2020

24  
25                                   By: 

26                                   Mike Halphide  
27                                   City of Newport Beach  
28

10/22/2019

Which Sand is Best for Playgrounds?

Home
Materials
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Bulk Rock Salt Now Available
MORE DETAILS HERE

Safety Training
Careers

**Sand Depth** – According to the National Safety Council, loose fill materials like sand for playgrounds should always have a minimum depth of 12 inches in any area surrounding equipment with a six foot drop or fall zone. At this depth, the natural shock absorbency of sand is at its highest, making it safer for children to play in.

**Maintenance** – Proper maintenance is a major factor in ensuring that sand is safe in children's play areas. Because sand can be moved and displaced as a result of foot traffic and weather, it's a good idea to rake the sand each day to guarantee that the material is evenly distributed and is maintained at a depth of 12 inches.

**Moisture** – If the inhalation of sand is a concern to you, you might consider lightly spraying down the surface of the sand with water. The moisture will compact the sand and hold it together, reducing the possibility of dust particles being breathed in by very small children.

Sand doesn't have to threaten the safety of children. There are plenty of options available that encourage fun, safety and sensory development. By carefully selecting an approved play sand and adhering to a few simple safety practices, you can rest assured that your children will be well protected at all times.

This photo is an original and courtesy of Edin Hergott.

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Exhibit Four

New Evidence on 1/18/2021 & 7/31/2022

Attach with Declaration of Eric Foley

AT&T

9:10 AM



New



Newport Beach - Balboa Peninsula

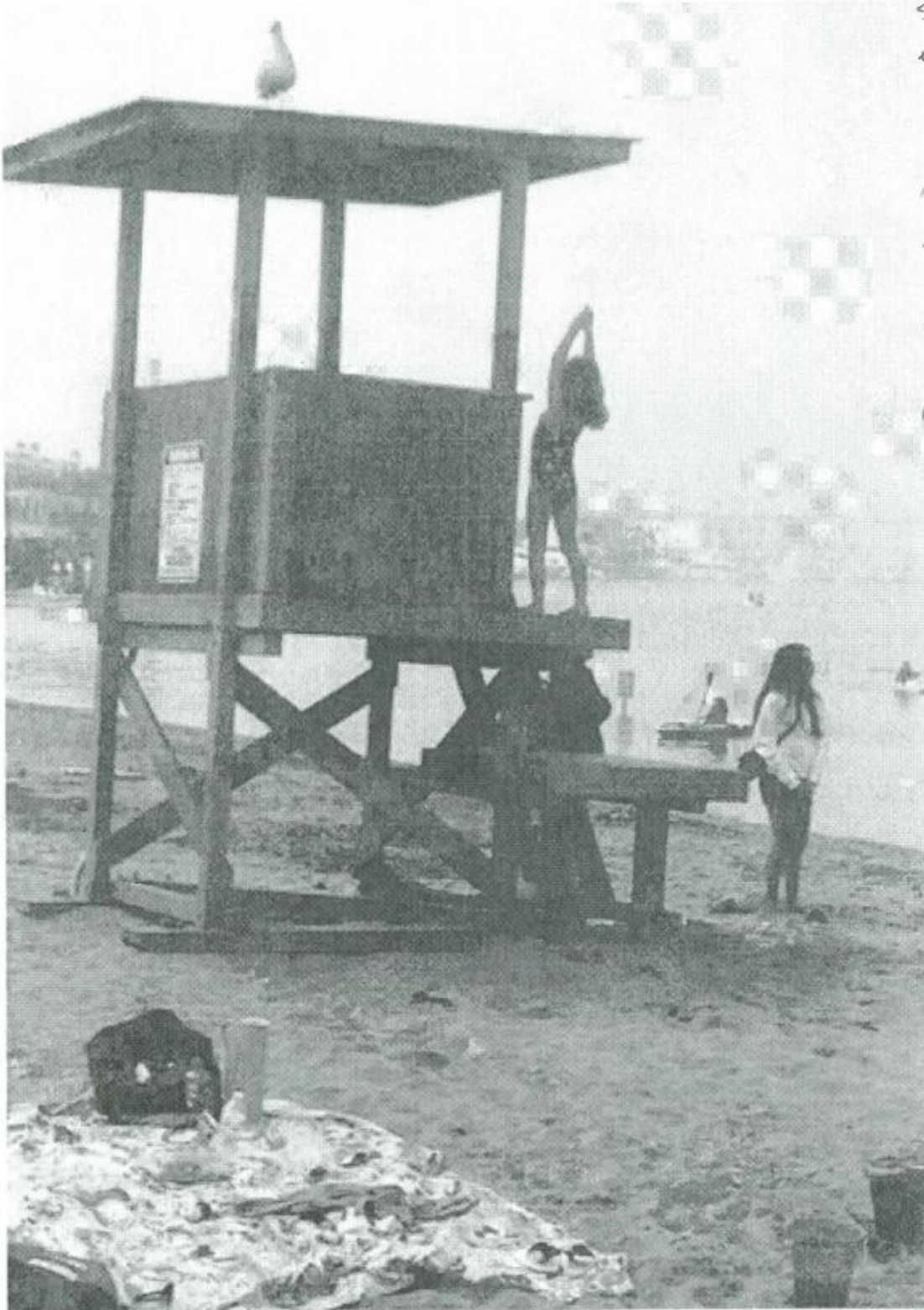
2021 January 18 2:56 PM

Edit

evidence:

See declaration  
of Eric Foley  
page 4, 16  
He's inspector  
for 16 years.  
He has never  
observed  
children  
playing on  
the subject  
Tower.

Taken by  
Plaintiff





AT&T

9:12 AM

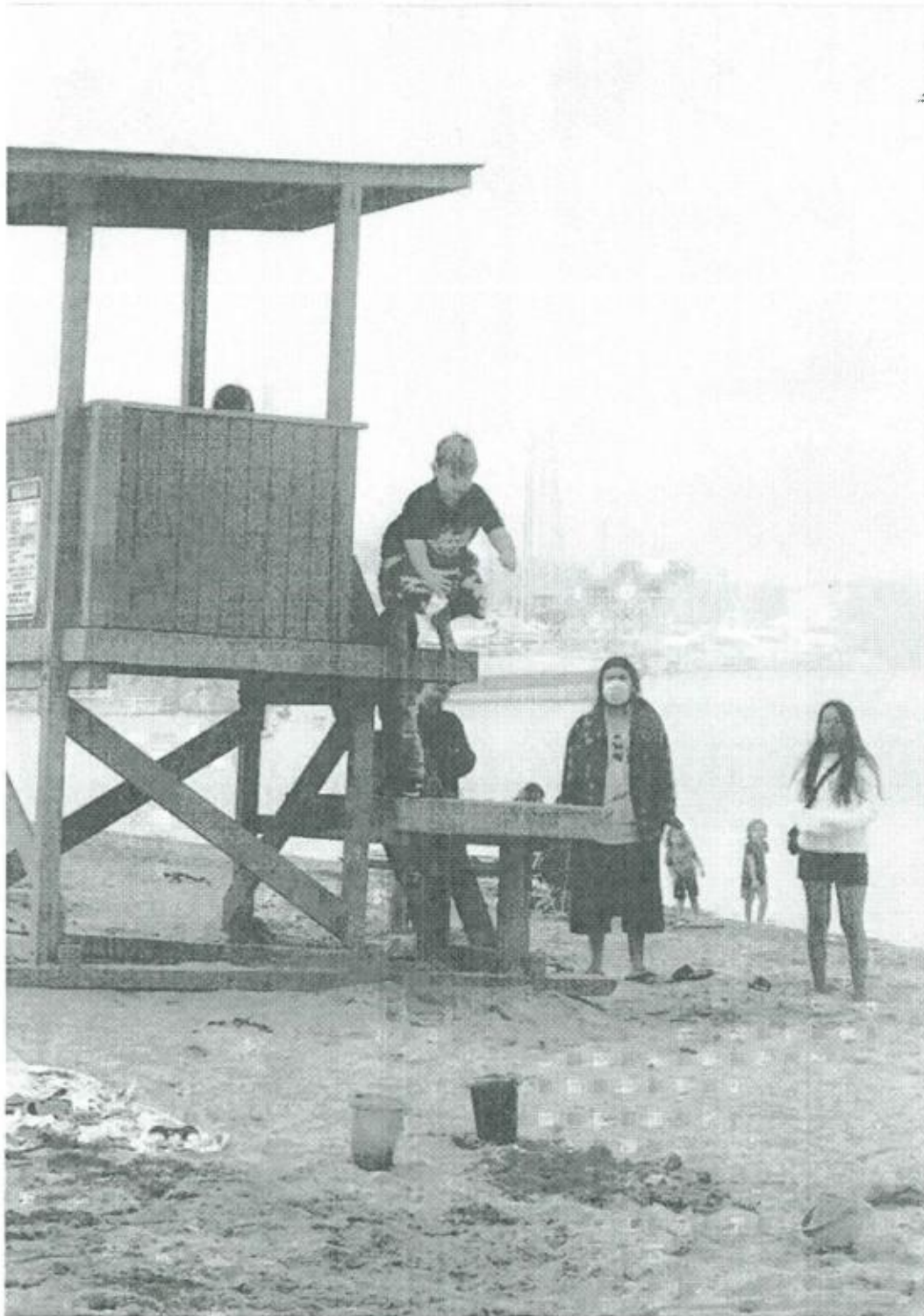


Newport Beach - Balboa Peninsula

2021, January 18 3:00 PM

Edit

New evidence.







Sent

No keep off sig...



2022

law evidence



Marina Park

July 31 18:06

Edit





1 Keith E. Rodenhuis, Esq. (SB#254465)  
2 Amber C. McCall, Esq. (SB#317892)  
3 KER LEGAL GROUP  
4 2601 Main Street, Suite 560  
5 Irvine, CA 92614  
6 Ph: (949) 252-9937  
7 Fx: (888) 292-4576

8 Attorney for Defendant,  
9 City of Newport Beach  
10 *Exempt From Filing Fees Pursuant To*  
11 *California Government Code §6103*

12  
13 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
14 THE COUNTY OF ORANGE - CENTRAL JUSTICE CENTER

15 YA XIAN FAN

16 Plaintiff,

17 vs.

18 CITY OF NEWPORT BEACH

19 Defendant.

Reservation No. 73341904

Case No.: 30-2019-01072057-CU-PO-CJC

20  
21 DECLARATION OF ERIC FOLEY IN  
22 SUPPORT OF MOTION FOR SUMMARY  
23 JUDGMENT

24 JUDGE: Honorable Glenn Salter  
25 DEPT.: C22  
26 LEAD DOC: ROA No. 130  
27 ACTION FILED: 5/24/19  
28 TRIAL DATE: 1/26/21

DECLARATION OF ERIC FOLEY

I, ERIC FOLEY, declare as follows:

1. I am over the age of 18 and if called as a witness, I could and would competently testify to the following facts.

2. I am a Certified Playground Safety Inspector employed by the City of Newport Beach (the "City") for over 28 years. I have worked as a Certified Playground Safety Inspector for 16 years.

**CERTIFIED PLAYGROUND SAFETY INSPECTOR**

3. The designation of "Certified Playground Safety Inspector" ("CPSI") is bestowed by the National Recreation and Park Association. To earn the designation a candidate must attend a two-day seminar, participate in a park site inspection for hands on experience and pass a test on standards promulgated by the Consumer Protection Safety Commission, ADA guidelines, ASTM standards and other issues related to park safety.

4. My designation as a CPSI was first earned on March 17, 2006 and has been renewed every three years, as appropriate. Like all professions, my skills as a CPSI have been honed as my experience grew over the last two decades. My designation is current, and attached to my declaration as EXHIBIT A is a true and correct copy of my certifications.

5. As the City's Certified Playground Safety Inspector, I conduct a thorough inspection of each City park on a rotating basis. Each city park is inspected at least once a month for fresh hazards. Considering I inspect each park not less than monthly, I am very familiar with the hazards unique to every park.

6. In addition to the at least monthly inspections of every park, I also check the "hot spots" at each park on a near weekly basis. "Hot Spots" range from places where children frequently dig to hidden cubby holes where adults stash alcohol bottles.

7. When performing my inspection rounds, I carry with me the necessary tools and equipment to immediately fix most playground hazards including shovels and rakes to backfill and smooth any holes or tripping hazards. I am empowered to take whatever steps are necessary to eliminate anything I perceive to be a potential danger.

**MARINA PARK PLAYGROUND**

8. I am intimately familiar with Marina Park playground (the "Playground") and the surrounding park area which is located near the Marina Park Community Center.

9. Attached as EXHIBIT B to my declaration is an aerial view of the Playground. As depicted, the Playground is in the shape of a semi-circle or "U." A red and white lighthouse slide marks the end of the Playground on the right side (as depicted) and a shaded sail marking the end of the Playground on the left side.

*Should be dropped off.*

*legs to bounce to jump*

1 10. I have read the deposition of Plaintiff Fan and understand she states she was injured  
2 when she jumped off a nearby lifeguard tower. The subject lifeguard tower (the "Tower") is 84 feet  
3 from the end of the Playground – it is not part of the Playground. Nor is the Tower similar to the  
4 equipment in the Playground; it cannot be easily confused as a piece of playground equipment.

#### 5 NATIONAL PLAYGROUND SAFETY STANDARDS

6 11. With regards to playground safety, the City adheres to the standards promulgated by  
7 the Consumer Protection Safety Commission, ADA guidelines, and ASTM.

8 12. Attached as EXHIBIT C is a website article produced by Ms. Fan at her deposition. I  
9 was requested to review the document in my capacity as a Certified Playground Safety Inspector. I  
10 have thoroughly analyzed the contents of the document produced by Ms. Fan.

11 13. The document produced by Ms. Fan (EXHIBIT C) references playground safety  
12 standards promulgated by the "National Safety Council." I have never heard of the "National Safety  
13 Council" and, if it is an actual organization, the City is not required to follow its guidelines. I cannot  
14 determine origin of the purported safety guidelines cited by Ms. Fan in Exhibit C.

15 14. / In reading the deposition of Ms. Fan, she states that "playground should always have  
16 minimum depth of 12 inches of sand." Fan Depo at p. 43, ln. 2-3. This "standard," as alleged by Ms.  
17 Fan, is irrelevant for numerous reasons. – *From: National Safety Council. Sand Rules*  
*see attached*

18 (A) As a practical matter, the sand at the beach has a depth far greater than 12  
19 inches. The sand goes all the way to the water table.

20 (B) The Tower has a maximum drop height of approximately five (5) feet high. As  
21 such, the website's purported guideline that "sand for playgrounds should always have a minimum  
22 depth of 12 inches in any area surrounding equipment with a six foot drop of fall zone" does not  
23 apply because the Lifeguard Tower does not have a six foot drop zone. *did not follow the rules.*

24 \*(C) Even if the subject Tower had a six-foot drop, the purported guidelines stated in  
25 EXHIBIT C still would not apply because the Tower is not located at a playground and is not  
26 playground equipment. *Because no notices or warning sign, so confused.*

27 // and  
28 // How visitors know to divide *See attached (from National*  
*Safety*  
*Council*  
*and Rules.*  
*for playground.*  
Playground with out warning sign  
or notice?



NOTICE

15. The Marina Park Playground has several pieces of playground equipment designed for climbing and under each of them is colorful spongy material. The purpose of the spongy material is twofold: (1) soften the impact if a child falls from climbing, and (2) provide a visual cue to parents and children so they know what equipment is safe for climbing/play.

16. The Marina Park was opened in 2015 and in my at least monthly inspection of the Playground, I have never observed children playing on the subject Tower. I have never been asked if the Tower was part of the playground and have never been told that children have been playing on the

*Tower. — Please see new photos on 1/18/2021. Children play up down*

17. The Tower is not in physical proximity to the Playground and doesn't have the <sup>on the Tower</sup> appearance of playground equipment. I have never been told that the Tower was mistaken as a piece of Playground equipment and as a Certified Playground Safety Inspector, I don't believe that the subject Tower could be easily confused as a piece playground equipment. *please see new evidence*

*Yes, easy to confused if without warning signs on 1/18/2021.*

I declare under the penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed this 14 day of September 2020

By: \_\_\_\_\_

*Eric Foley*  
Eric Foley

City of Newport Beach

*Very easy to confused the Tower is part of playground equipment  
due to no warning sign.*

*The Tower compare with Oceanside, much smaller & lower level*

Exhibit Five:

Evidences for Broken Left Forearm & Left Hand  
Hoag Hospital Reports from 5/15/2018 - 5/18/2018

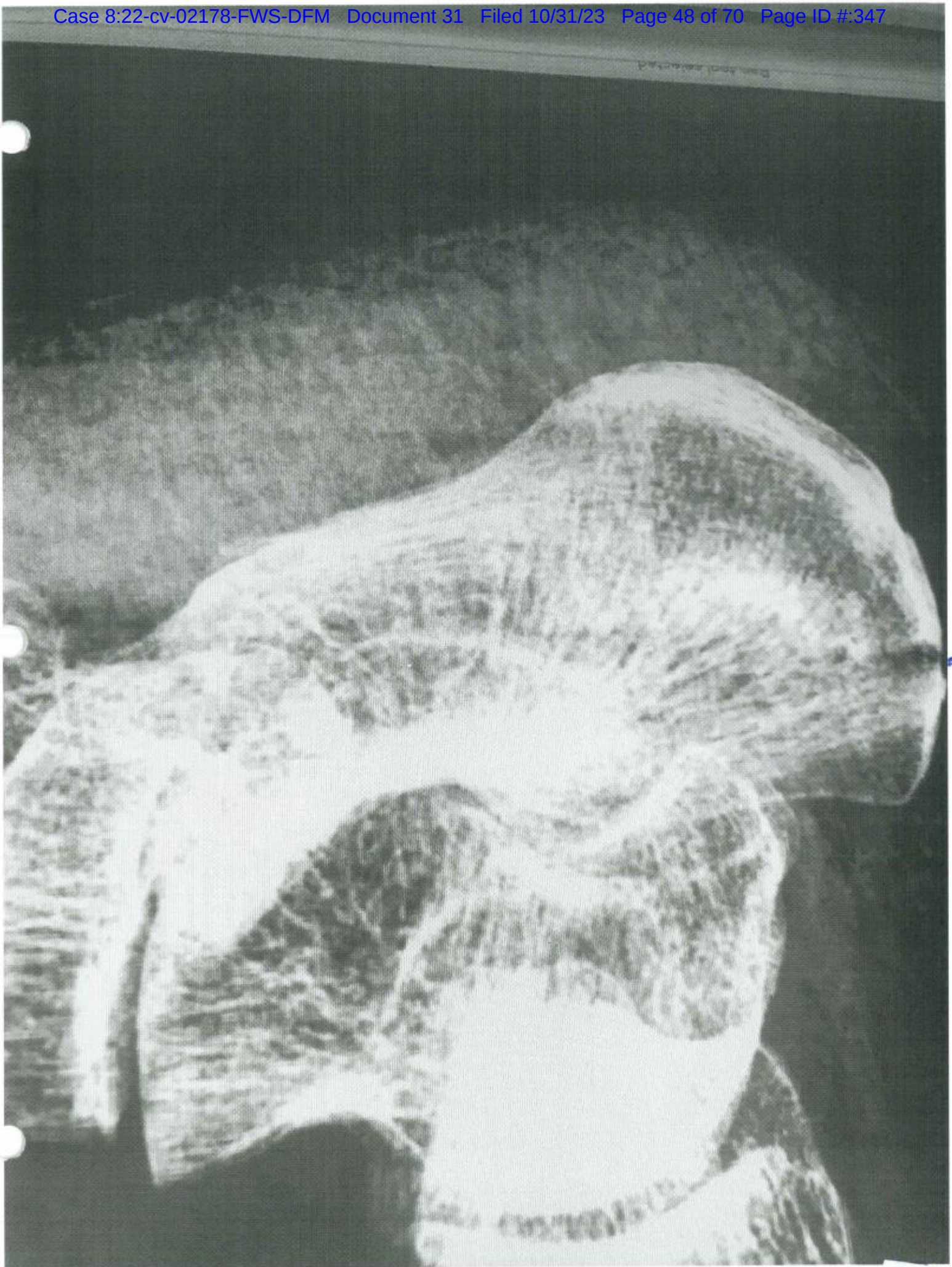


















HHN HOAG HOSPITAL NEWPORT BEACH  
1 HOAG DR  
NEWPORT BEACH CA 92663-4162  
Clinical Encounter Report

Fan, Ya Xian  
MRN: 20005519972, DOB: 7/31/1954, Sex: F  
Visit date: 5/16/2018

*1st*  
*5/16/2018 out Hospital*

**All Results (continued)**

Resulted: 05/16/18 1345, Result status: Final  
result

**Anesthesia Airway Note [584823799] (continued)**

**UC Notes**

No notes of this type exist for this encounter.

**Interval H&P Note (unlinked) by Corey M Lieber, MD at 5/16/2018 13:38**

Author: Corey M Lieber, MD	Service: Surgery	Author Type: Physician
Filed: 5/16/2018 13:39	Date of Service: 5/16/2018 13:38	Creation Time: 5/16/2018 13:38
Status: Signed	Editor: Corey M Lieber, MD (Physician)	

**SURGICAL INTERIM HISTORY AND PHYSICAL UPDATE**

**Pt. Name/Age/DOB:** Ya Xian Fan 63 y.o. 7/31/1954

**Medical Record Number:** 20005519972

**Date of admission:** 5/15/2018

The current H&P was reviewed. The patient was reexamined. Re-evaluation of the patient confirms the necessity for the scheduled procedure. **No change** has occurred in the patient's condition since the H&P was completed less than 30 days ago.

Plan: Open reduction internal fixation of left proximal radius shaft fracture. I discussed risks of posterior interosseous nerve palsy. We will treat left calcaneus fracture in a closed fashion for now and await resolution of acute soft tissue swelling before discussing possible surgical intervention for that fracture. PARQ conference held. Questions elicited and answered from patient and family. Consent verified and signed. Surgical site marked.

**Electronically signed by:** Corey M. Lieber, 5/16/2018 13:39

Electronically Signed by Corey M Lieber, MD on 5/16/2018 13:39

**Encounter Messages**

No messages in this encounter

**Op Note by Corey M Lieber, MD at 5/16/2018 18:55**

Author: Corey M Lieber, MD	Service: Surgery	Author Type: Physician
Filed: 5/16/2018 19:01	Date of Service: 5/16/2018 18:55	Creation Time: 5/16/2018 18:55
Status: Signed	Editor: Corey M Lieber, MD (Physician)	

HHN HOAG HOSPITAL NEWPORT BEACH  
1 HOAG DR  
NEWPORT BEACH CA 92663-4162

Fan, Ya Xian  
MRN: 20005519972, DOB: 7/31/1954, Sex: F  
Adm: 5/15/2018, D/C: 5/18/2018 - *Four nights*

Op Note by Corey M Lieber, MD at 5/16/2018 18:55 (continued)

### OPERATIVE NOTE

**Pt. Name/Age/DOB:** Ya Xian Fan 63 y.o. 7/31/1954  
**Med. Record Number:** 20005519972  
**Date of admission:** 5/15/2018

**Date of Operation/Procedure:** 5/16/2018

**Preoperative Diagnosis:** 1. Left closed, displaced, comminuted proximal one third radius shaft fracture  
2. Left closed, joint depression type intra-articular calcaneus fracture

\* No Diagnosis Codes entered \*

**Surgeon:** Corey M Lieber, MD

**Surgical Assistant:** None

**Anesthesia Provider(s):** Anesthesiologist: Brian P Denton, MD

**Anesthesia Type:** General

**Procedure:** Procedure(s):

1. Open reduction internal fixation of left closed, comminuted, proximal one third radius shaft fracture
2. Closed treatment of left closed, comminuted, joint depression type intra-articular calcaneus fracture

**Operative Indications:** Ya Xian Fan is a 63 y.o. year old female who presents with left forearm pain and deformity and left lateral foot and ankle pain and swelling after a fall. The patient and/or guardian was counseled and consented to proceed.

### **Operative Findings:**

**Operation:** The patient was identified as Ya Xian Fan and the procedure was confirmed as stated above. The patient was placed in the supine position. Following the induction of adequate general endotracheal anesthesia, the left upper extremity were prepped and draped in the usual sterile fashion. The patient received appropriate appropriate preoperative prophylactic preoperative antibiotics. Following a comprehensive surgical pause, we started the procedure by elevating the tourniquet on the left upper arm. A standard volar Henry approach was used to expose the comminuted proximal one third fracture site on the volar surface. The pronator teres was elevated off the midshaft of the radius distal to the fracture site. Periosteum was elevated proximal to the fracture site up to the biceps tuberosity. There are multiple fragments including butterfly comminution which are too small to accept independent fixation. The fracture was angulated and shortened. We reduced the fracture with 2 lobster claw clamps used to distract the fracture and alignment. Reduction was held temporarily with a K wire. A Synthes 2.7 mm straight LCP plate was placed over the volar surface of the fracture. Fixation on either side of the fracture was done in a hybrid fashion with 2 bicortical nonlocking screws and one central locking screw. Fluoroscopy was used to confirm appropriate reduction of the fracture and placement of the implant screws. We then irrigated the area. Closure was done of the subcutaneous tissue with Vicryl. The skin was closed with a running barbed suture and skin glue. A soft dressing and a short volar wrist splint were applied. The left heel and leg were quite swollen and ecchymotic and so the foot will be



HHN HOAG HOSPITAL NEWPORT BEACH  
1 HOAG DR  
NEWPORT BEACH CA 92663-4162

Fan, Ya Xian  
MRN: 20005519972, DOB: 7/31/1954, Sex: F  
Adm: 5/15/2018, D/C: 5/18/2018 *Four nights*

Op Note by Corey M Lieber, MD at 5/16/2018 18:55 (continued)

treated in a closed fashion for now with elevation and icing and nonweightbearing precautions. She can use her left arm for platform walker.

**Estimated Blood Loss:** approximately 25 mL

**Transfused:** no

**Drains:** no

**Specimen (s):** \* No specimens in log \*

**Implant:**

Implant Name	Type	Inv. Item	Serial No.	Manufacturer	Lot No.	LRB	No. Used
SCREW SYNTH 2.7X14MM CORTEX - LOG1081869		SCREW SYNTH 2.7X14MM CORTEX		HMHP SYNTHES USA - SYNT		Left	1
SCREW SYNTH 2.7X16MM CORTEX - LOG1081869		SCREW SYNTH 2.7X16MM CORTEX		HMHP SYNTHES USA - SYNT		Left	2
SCREW SYNTH 2.7X18MM CORTEX - LOG1081869		SCREW SYNTH 2.7X18MM CORTEX		HMHP SYNTHES USA - SYNT		Left	2
SCREW SYNTH 2.7MMX16MM LOCKING - LOG1081869		SCREW SYNTH 2.7MMX16MM LOCKING		HMHP SYNTHES USA - SYNT		Left	2
PLATE - LOG1081869		PLATE		HMHP SYNTHES USA - SYNT		Left	1

**Complications:** none

**Disposition/condition:** PACU - hemodynamically stable. The patient will be nonweightbearing to the left foot. She can use a fracture boot when ambulating but will otherwise keep it elevated and ice as much as possible in anticipation that we might consider operative fixation in a couple weeks once the swelling goes down and a discussion was had regarding risks and benefits of further surgery. She can use her left arm to manipulate a platform walker that she will need to use which I would otherwise be nonweightbearing.

Corey M. Lieber, MD  
5/16/2018 18:56

Exhibit SA: Sham Exception apply

On 2/7/2022, I received Anonymous letter about:  
"I deliberately to broke my leg to get rich"

Attached Two 1099 from two CPA firms, all earned  
in Tax season in 2018 Before I injured.

"How can I have time to do so?"

Evidences to proof KBR is the fake one, due to

I asked Federal Question #13, no one he can response.



How did you received?

What's name of person? When and Where?

Any of evidence in support?

----- Forwarded Message -----

From: Keith E. Rodenhuis, Esq. <[keith@kerlegalgroup.com](mailto:keith@kerlegalgroup.com)>

To: Fay F <[fay731@yahoo.com](mailto:fay731@yahoo.com)>

Sent: Monday, February 7, 2022, 04:09:32 PM PST

Subject: RE: Oral argument

Ms. Fan,

We received the document attached to your email.

Also, I wanted to advise you that the City of Newport Beach was also recently sent the attached official correspondence. It is very disappointing to see that after our office was so helpful that you would make false allegations against the firm and tell others that you **“are about to get rich.”** The Appellate Court, which is itself a branch of government, will be very interested in knowing that **“these are all scams”** that you are trying to perpetrate on the Court and the City. As a courtesy, I wanted to bring this to your attention so you have an opportunity to address it in your oral argument.

Respectfully,

Keith . ,

JAN 31 2022

What I want to talk about today is an old woman from China. She makes her living off suing people. Her name is Fan Fei. She tried to deceive the Newport City Hall for money. Three years ago, she rented a house by the beach in Newport Beach for 20 days. She deliberately jumped from the top and broke her leg. From then on, she started suing Newport Beach. In recent years, she has been telling people that she was about to get rich. She told Newport Beach that the sand on the beach was not thick enough and wanted Newport city to compensate her a lot of money.

⑥ These are all scams. And all I said above are the facts! Be careful!

From all evidence to prove that anonymity person is true scammer. Should not protect, I respect Supreme Court have fully investigation to find what's truth. Otherwise, the anonymity continue damage, corrupt to legal system. Anonymity letter attached by KER, emailed system.

on 2/7/2022

Injured on May 15, 2018.

- ① I have the injury lawsuit only once in my life, and working 14 hours a day just after Tax season end of April every year. 20 years. How can I have time living off for suing people?
- ② I rented 10 days Beach house for my brother's family visited me. ~~not 20 days~~
- ③ I did not jump (not stand up, using legs bounce to jump). I was sitting down and did not broke my leg. I did broke my fore arm & foot hill on left side. How can anonymity person did not know what part of body I was broken, but can know I deliberately jump top and break my leg? no leg broken.
- ④ Anonymity: "she has been telling people (KER can't name one person, and anonymity person did not appear on Appeal Court oral argument. I asked justice, I ask questions. Let KER to have "True" or "False" answer, but didn't allowed me. ⑤ On 12/15/2020, I filed form L-0052 Mandatory Settlement Conference statement ask: "The minimum and maximum evaluation, I wrote: ... cool the town and poor citizen swallow much more loss income and ... historical



*Before injured*  
*work for this CPA firm from Feb - April during tax season.*

☐ CORRECTED (if checked)

PAYER'S name, street address, city or town, state or province, country, ZIP or foreign postal code, and telephone no. Gaytan & Leevan, LLP 11400 West Olympic Blvd #1600 Los Angeles CA 90064 (310) 477-5252		1 Rents \$	2 Royalties \$	OMB No. 1545-0115 <b>2018</b> <b>Miscellaneous Income</b> Form 1099-MISC Copy B For Recipient This is important tax information and is being furnished to the IRS. If you are required to file a return, a negligence penalty or other sanction may be imposed on you if this income is taxable and the IRS determines that it has not been reported.
PAYER'S TIN 73-1690684	RECIPIENT'S TIN	3 Other income \$	4 Federal income tax withheld \$	
RECIPIENT'S name and address Ya X. Fan 2235 W 25th Street Apt 214 San Pedro CA 90732		5 Fishing boat proceeds \$	6 Medical & health care payments \$	
Account number (see instructions)		7 Nonemployee compensation \$ 15547.00	8 Substitute payments in lieu of dividends or interest \$	
FATCA filing requirement <input type="checkbox"/>		9 Payer made direct sales of \$5,000 or more of consumer products to a buyer (recipient) for resale <input type="checkbox"/>	10 Crop insurance proceeds \$	
		11	12	
		13 Excess golden parachute payments \$	14 Gross proceeds paid to an attorney \$	
		15a Section 409A deferrals \$	15b Section 409A income \$	
		16 State tax withheld \$	17 State/Payer's state no. \$	18 State income \$

Form 1099-MISC (keep for your records) DXA www.irs.gov/Form1099MISC Department of the Treasury - Internal Revenue Service

9595 ☐ VOID ☐ CORRECTED

PAYER'S name, street address, city or town, state or province, country, ZIP or foreign postal code, and telephone no. ROY I. ISHII 27520 HAWTHORNE BLVD., STE. 263 ROLLING HILLS ESTATES, CA 90274		1 Rents \$	2 Royalties \$	OMB No. 1545-0115 <b>2018</b> Form 1099-MISC	Copy A For Internal Revenue Service Center File with Form 1096. For Privacy Act and Paperwork Reduction Act Notice, see the 2018 General Instructions for Certain Information Returns.
PAYER'S TIN 33-0326251	RECIPIENT'S TIN	3 Other income \$	4 Federal income tax withheld \$		
RECIPIENT'S name Yaxian Fan		5 Fishing boat proceeds \$	6 Medical and health care payments \$		
Street address (including apt. no.) 6822 Verde Ridge Road		7 Nonemployee compensation \$ 14519.17	8 Substitute payments in lieu of dividends or interest \$		
City or town, state or province, country, and ZIP or foreign postal code Rancho Palos Verdes CA 90275		9 Payer made direct sales of \$5,000 or more of consumer products to a buyer (recipient) for resale <input type="checkbox"/>	10 Crop insurance proceeds \$		
Account number (see instructions)		11	12		
FATCA filing requirement <input type="checkbox"/>		13 Excess golden parachute payments \$	14 Gross proceeds paid to an attorney \$		
15a Section 409A deferrals \$		15b Section 409A income \$	16 State tax withheld \$	17 State/Payer's state no. \$	18 State income \$

Form 1099-MISC LMA 41-0852411 5110 www.irs.gov/Form1099MISC Department of the Treasury - Internal Revenue Service

*Plaintiff's earnings before injury*  
*Copy from my Tax Return 2017/2018*

*55,800 2017*  
*(-14,519) 2018*  
*= 41,281 2018*  
*differance*



ISHII & COMPANY  
CERTIFIED PUBLIC ACCOUNTANTS

27520 HAWTHORNE BOULEVARD, \* SUITE 263 \* ROLLING HILLS ESTATES, CALIFORNIA 90274  
TELEPHONE (310) 265-1401 \* FAX (310) 265-1406

July 23, 2018

To whom it may concern,

Fay Fan was associated with our firm for over eight years. During that period as our tax accountant we have found her conduct services and habits, satisfactory and we have had no reason to question her loyalty, integrity or moral character.

Yours very truly,

Roy I. Ishii, CPA/PFS



Exhibit Seven:

On July 24, 2023, HBR sent a letter for garnish  
Payment for Deposition Fee is disallowable cost  
by CCP 1033.5(b)(2);

KER

KER Legal Group

2601 MAIN ST. • SUITE 560 • IRVINE • CA 92614

July 24, 2023

**SENT VIA USPS ONLY**

Ya Xian Fan  
248 Overbrook  
Irvine, CA 92620

**RE: FAN V. CITY OF NEWPORT BEACH  
DEMAND FOR PAYMENT PURSUANT COURT ORDER**

Dear Ms. Fan:

As you are aware, your "Motion to Dismiss Recovery of Costs of KER Legal Group Claimed on 12/2/2022" was denied by the Court. The Court ordered you to pay the costs the City expended litigating your meritless claim. Attached hereto as Exhibit 1 is a copy of the Notice of Ruling on your motion.

As a result, you are now responsible for payment of costs as outlined in the "Memorandum of <sup>is Deposition Cost</sup> ~~Costs~~ <sup>lie</sup>" dated December 20, 2022 in the amount of \$3,776.24 (Three Thousand Seven Hundred Seventy Six Dollars and Twenty Four Cents). Attached hereto as Exhibit 2 is a copy of the memorandum of costs submitted by the City and approved by the Court.

To avoid further action, up to and including garnishment, please remit payment to this amount by way of a check payable to "City of Newport Beach" at your earliest opportunity. Please send this payment to the address below:

KER Legal Group  
2601 Main St., Suite 560  
Irvine, CA 92614

If you have any questions, please contact our office at 949-252-9937 or email me at [Amanda@KERLegalGroup.com](mailto:Amanda@KERLegalGroup.com).

Sincerely,



Amanda Ellis  
Executive Director, KER Legal Group

"What's break down details  
Memorandum of Cost"  
Just cannot claim General  
"Memorandum Cost"

Enclosures: as stated above.





## Exhibit Eight:

① On April 13, 2023, Email from KZR

Still no response for Federal Question #16.  
"The appellate Court Judges thought your  
claim was entirely without merit."

② Evidence to prove two Court Clerks received  
I filed opposition summary Judgments, but not  
shown in docket, used the way to deprive my  
CIVIL Right<sup>is</sup>, totally unacceptable.



From: Keith E. Rodenhuis, Esq.  
 Sent: Thursday, April 13, 2023 12:08 PM *For Question 16*  
 To: fan Fay  
 Cc: fan Fay; Amanda Ellis; Amber McCall  
 Subject: RE: Fan v. CNB | Meet and Confer re. Mtn to Dismiss

Good Morning Ms. Fan,

A short while ago I returned your call hoping to discuss your case. I left a message on your voicemail and hope to hear from you soon.

To be candid, it is difficult to understand the allegations in your latest lawsuit. To the extent that you are suing for injuries sustained on May 15, 2018, the statute of limitations has already passed, and your lawsuit is now time barred. You cannot seek relief from the Federal Court for a lawsuit this is barred and already been heard in State Court.

If you are bringing a lawsuit for some other reason, that is also unintelligible in the lawsuit you served.

Based on your below email, it appears you are now alleging some sort of conspiracy between the Orange County Superior Court and this law firm. First, I only wish to have the power that you allege below and in prior pleadings – I have no sway on the court staff, trial court judge(s), the appellate court judges or the California Supreme Court. Second, the reason your documents were rejected by the clerk is because they were not properly filed. The trial court judge *on many occasions* instructed you to retain an attorney. As a courtesy, I even sent resources so you could find an attorney but you instead chose to prosecute this case on you own. Consequently, documents were not properly filed by you.

*X* If it is any solace, there was never any basis for a lawsuit against the City. You injured yourself jumping down from a lifeguard tower and, as could be gleaned from their comments from the bench and ruling, *X* The appellate court judges thought your claim was entirely without merit. *I Demand Answer: who*

Notwithstanding the above, please contact our office to speak with either myself or Amber regarding your latest lawsuit.

I hope that you have a wonderful day.

Respectfully,

Keith

*No such common "without merit"*  
*from Appellate Court's opinion -*



Keith E. Rodenhuis, Esq.  
 Counselor at Law  
 2801 Main Street, Suite 650, Irvine, CA 92614  
 Phone: 949.242.4576  
 Fax: 949.242.4576  
 Email: krod@kerlegal.com

\* Susy ~~not drop~~  
11/24

Susy signed her name & Date.  
after I dropped my file again.

Also, she emailed to Candice about  
my file and told me: "superior has  
my file." I asked: "what's superior's  
name? why hold my file too long?  
Susy is not too sure about."

Finally, I have superior's name and reported to  
Court office for investigation.

only the opposition summary judgement  
documents not show to  
ROA Docket

Candice signed  
her name.

Candice \*  
Court

Candice told me I can  
received copy of stamp  
the date 11/18/2020 in next day.

11/18/2020 filings.

12 dropped

After, I sent to defendant's

KER Legal Group. They received  
in next day on 11/19/2020

See Tracking number, I printed delivery history.

Candice * 11/18/20	Susy 11/24/20
-----------------------	------------------

all work for superior Court filing department  
Both Court clerks are good employees.



Exhibit Nine:

Premise Liabilities. apply.

From: 6/17/2021, notice file of Appeal.

To: 12/2/2022. filed Complaint on Federal Court, in one and half years.

3	<p>Fan v. City of Newport Beach (19-1072057)</p> <p><i>Judge Sabter</i></p> <p><i>Over 90 days Signed following by 3/15/21</i></p>	<p>On December 3, 2020, Judge George granted the defendant City of Newport Beach's motion for summary judgment on the ground the City was immune from liability for dangerous condition of the beach pursuant to Government Code section 831.2.</p> <p>Judge George signed the judgment and it was entered in the court's records on March 3, 2021. The following day the clerk served a copy of the judgment on the parties, including the plaintiff.</p> <p>On March 17, 2021, plaintiff Yaxian Fan attempted to file a declaration "to contest the</p>
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6/17/2021

From Judge Salter

Rulings 1

7/2021

I filed  
on 3/11/2021  
and 3/17/2021  
rejected, by  
dig off the box  
or email. only  
file at 1st floor  
window OK

wrongful judgment." But the only extant document in the file is the clerk's rejection. (RAO 190.) Fan made several other requests to bring her claims as to the alleged wrongfulness of the judgment to the court's attention, but they were all rejected by the clerk's office for noncompliance with the Rules of Court.

On March 26, 2021, Fan filed a motion to vacate what she termed a "wrongful" judgment. (ROA 205.) Apparently, this was after Judge Oberholzer denied her ex parte request to continue trial of a matter that had been dismissed. (See ROA-203.) She attempted to file a new motion to vacate on May 17, 2021, but that was rejected for failure to pay a filing fee and because there was already a motion to vacate on calendar. (See ROA 225.) I paid 60, - after clerk asked.

The court understands the plaintiff to make three basic arguments: (1) Judge George was not a "real" judge and, in any event, she was wrong to grant summary judgment under the facts; (2) plaintiff was deprived of the opportunity to engage in oral argument; and (3) there is additional documentary and photographic evidence that proves the plaintiff's case.

Thank you  
for the Court  
understand how  
difficult situation  
is

First, the City argues the motion was untimely filed. It is unclear from the nature of the motions and other documents filed what documents should be considered as the motion now before the court. Because Fan tried to file a declaration raising the issues she raises now right after the judgment was entered, this court is inclined, out of an abundance of caution, to deem the motion timely. Given one of the arguments is that Fan was not afforded the opportunity to engage in oral argument on the summary judgment motion, the court concludes it must allow the motion to proceed as timely filed.

Fan's assertion that Judge George is not a "real judge" and somehow this court had to hear the summary judgment motion is wrong. Judge George is a duly elected judge of the Orange

2021

Rulings 1

*Did not heard 10*

E

*why?**one b.g party*

Q

*rulings. due to only have defendant's S&J files, not have Plaintiff file.*

County Superior Court and properly heard the motion—as well as the other motions on calendar that day in this department.

*phone line cut off all silent, can't see it*

Fan's assertion that Judge George was wrong to grant summary judgment is not properly before the court because it is untimely, having been filed after the judgment was entered against her. Even if this court could reconsider the ruling of another judge, it appears that the motion for summary judgment was properly granted.

*oral arguments**not**Q no oral argument at all**after read tentative ruling, she should ask me: what do you want response?*

Fan's assertion that she was deprived of the opportunity to have oral argument is not supported by the record, or her own assertions. She admits she dialed into the court on Court Call, the court read her its tentative ruling, and she engaged in some discussion with Judge George. The minute order also reflects her presence on the telephone. It appears, therefore, that she was afforded the opportunity to orally argue the motion. If she had been somehow disconnected—which may be her claim; it is unclear—that is something she should have brought to the attention of the court or CourtCall as soon as possible that day. She should have dialed in again. There is no evidence she took either course of action; nor did she raise it in the days thereafter; and, thus that claim is waived.

10

*the phone line disconnected from CourtCall operator,**court call was not good m't see I can't hear it early. Sometimes, silent, disconnect, phone is down etc.*

Finally, Fan's assertion there is additional evidence out there that the City and the court should consider is unfortunately too late to be considered by the court. Judgment has been entered and Fan has not provided any authority or legal justification that would allow the court to set aside or vacate the judgment on this ground. Moreover, it appears the supplemental evidence is duplicative of the evidence presented and does not address the main reason for the dismissal of her claim; i.e., governmental immunity protected the City. At this point, any jurisdiction of the matter is, upon the filing of proper paperwork, within the province of the Court of Appeal.

11

*The City is Municipalities & Govt Immunity*



6/17/2021

- From Judge Satter

Rulings 1

		<p>The City and its counsel, feeling it is being abused by Fan's continued contact, has also sought monetary sanctions against her. This request is problematic. If Fan's papers are to be believed, she is providing the City and its legal counsel with additional evidence of an on-going problem with the sand on the beach. True, the primary purpose of her complaints is fueled by her personal claims against the city and the belief her legitimate concerns have been ignored by the City and the courts. Even so, a citizen has a right to petition its government on matters that fall within the jurisdiction of the government entity. The court is reluctant, under all these circumstances, to impose sanctions against Fan.</p> <p>The plaintiff's motion to vacate is DENIED. The City's motion for sanctions is DENIED. The City shall give notice.</p>	12
4 5	Cowan v. Wurzburg (20-1167821)	<p>The plaintiff filed four discovery motions against defendant Cabo del Mar Homeowners Association. (See ROAs 72, 73, 74, and 75.)</p> <p>It appears that the parties have engaged in a good faith effort to resolve their discovery dispute, but that a further meet and confer might be beneficial.</p> <p>Accordingly, on the court's own motion and for good cause all discovery motions on calendar for this date, and the concomitant requests for sanctions, are CONTINUED to July 15, 2021, at 1:30 pm. The continuance fee is waived.</p> <p>The parties are also ORDERED to meet and confer and to advise the court by a joint written statement as to what discovery disputes, if any, remain outstanding. The joint statement shall be filed no later than July 8, 2021.</p> <p>The plaintiff shall give notice.</p>	13
6	Kenney v. Reynolds Carpet	<p>Defendant Reynolds Carpet Service Incorporated filed four discovery motions. There is a notice of withdrawal of motions that</p>	Page 4 Page



SUPERIOR COURT OF CALIFORNIA,  
COUNTY OF ORANGE  
CENTRAL JUSTICE CENTER

MINUTE ORDER

ROA 272  
6/18/2021

\* DATE: 06/17/2021

TIME: 01:30:00 PM

DEPT: C22

JUDICIAL OFFICER PRESIDING: Glenn Salter

CLERK: Christine Nguyen

REPORTER/ERM: None

BAILIFF/COURT ATTENDANT: A. Wilson

CASE NO: 30-2019-01072057-CU-PO-CJC CASE INIT.DATE: 05/24/2019

CASE TITLE: Fan vs. City of Newport Beach

CASE CATEGORY: Civil - Unlimited CASE TYPE: PI/PD/WD - Other

EVENT ID/DOCUMENT ID: 73539123

EVENT TYPE: Motion to ~~Set Aside~~ Vacate Default and Judgment

PREMISE LIMITIES

✓APPLY - in one and

HALF years

**APPEARANCES**

Yaxian Fan, self represented Plaintiff, present telephonically.

Keith E. Rodenhuis, from KER Legal Group, present for Defendant(s) telephonically.

In open court.

The Court hears oral argument from plaintiff and defendant counsel.

The Court takes this matter under submission.

{ FROM: 6/17/2021  
TO: 12/12/2022

**Later same day.**

Plaintiff's motion to vacate is DENIED.

Her remedy, if still timely, is now to file a notice of appeal.

It was one big party ruling!

Defendant's motion for sanctions is DENIED.

Court orders Clerk to give notice.

12/3/2020, during Summary Judgement hearing, Judge George C24, as temporary for C22. She did not give a chance to plaintiff to response defendant's tentative ruling. I asked: "Did you read my dispute Summary Judgement file?" I filing intently, I have a trucking number. no any answer. no any oral argument. Defendant's lawyer only said four words: "Thank you your honor!"

on 3/3/2021, Judge George signed judgement over 90 days. by Law 3.159. within 50 days, same time original assigned Judge Satter ordered. Court trial continue to 3/29/2021 ROA 177. Judge Satter reading through my files. knows plaintiff has huge before / AFTER evidency, and defendant does not apply

DATE: 06/17/2021

DEPT: C22

MINUTE ORDER GC 831.2.

Page 1

Calendar No.

NAME, ADDRESS AND TELEPHONE NUMBER OF ATTORNEY(S)

Yaxian Fan  
248 Overbrook,  
Irvine, CA 92620**UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA**

Fan

CASE NUMBER

8:22-CV-02178-FWS-(DFMx)

PLAINTIFF(S),

v.

City of Newport Beach

- Represent by KER Legal Group

**PROOF OF SERVICE - ACKNOWLEDGMENT  
OF SERVICE**

DEFENDANT(S).

I, the undersigned, certify and declare that I am over the age of 18 years, employed in the County of \_\_\_\_\_, State of California, and not a party to the above-entitled cause. On \_\_\_\_\_, 20\_\_\_\_\_, I served a true copy of PLAINTIFF Files Second Amendment to response Civil Minutes on 9/29/2023 docket #28

by personally delivering it to the person (s) indicated below in the manner as provided in FRCivP 5(b); by depositing it in the United States Mail in a sealed envelope with the postage thereon fully prepaid to the following: (list names and addresses for person(s) served. Attach additional pages if necessary.)

Place of Mailing: From email: fay731@yahoo.com, To: keith@kerlegalgroup.com, amber@kerlegalgrouo.com,

Executed on October 31, 2023 at Orange County, California

Please check one of these boxes if service is made by mail:

- ☐ I hereby certify that I am a member of the Bar of the United States District Court, Central District of California.
- ☐ I hereby certify that I am employed in the office of a member of the Bar of this Court at whose direction the service was made.
- ☒ I hereby certify under the penalty of perjury that the foregoing is true and correct.

  
 Signature of Person Making Service
**ACKNOWLEDGEMENT OF SERVICE**

I, \_\_\_\_\_, received a true copy of the within document on \_\_\_\_\_.

Signature

Party Served